

# Treaty

establishing

## The European Coal and Steel Community

Paris, 18th April, 1951



*LONDON*

HER MAJESTY'S STATIONERY OFFICE

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THE PRESIDENT OF THE GERMAN FEDERAL REPUBLIC, HIS ROYAL HIGHNESS THE PRINCE ROYAL OF BELGIUM, THE PRESIDENT OF THE FRENCH REPUBLIC, THE PRESIDENT OF THE ITALIAN REPUBLIC, HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBOURG, HER MAJESTY THE QUEEN OF THE NETHERLANDS.

CONSIDERING that world peace can only be safeguarded by creative efforts which are as great as the dangers which threaten it;

BEING CONSCIOUS that the contribution which an organised and vital Europe can bring to civilisation is indispensable to the maintenance of peaceful relations;

AWARE that Europe can be built only by concrete actions which first create a real solidarity and by the establishment of common bases for economic development;

ANXIOUS to cooperate by expanding their basic production, in raising the standard of living and in furthering the works of peace;

RESOLVED to substitute for historic rivalries a fusion of their essential interests; to lay, by establishing an economic community, the foundations of a broader and deeper community among peoples long divided by bloody conflicts; and to lay the groundwork of institutions which will give direction to a destiny which these peoples will henceforward share;

HAVE DECIDED to create a European Coal and Steel Community and to this end have designated as Plenipotentiaries:

THE PRESIDENT OF THE GERMAN FEDERAL REPUBLIC:

DR. Konrad ADENAUER, Chancellor and Minister for Foreign Affairs;

HIS ROYAL HIGHNESS THE PRINCE ROYAL OF BELGIUM:

MR. Paul VAN ZEELAND, Minister for Foreign Affairs,

MR. Joseph MEURICE, Minister for Foreign Trade;

THE PRESIDENT OF THE FRENCH REPUBLIC:

MR. Robert SCHUMAN, Minister for Foreign Affairs;

THE PRESIDENT OF THE ITALIAN REPUBLIC:

MR. Carlo SPORZA, Minister for Foreign Affairs;

HER ROYAL HIGHNESS THE GRAND DUCHESS OF LUXEMBOURG:

MR. Joseph BECH, Minister for Foreign Affairs;

HER MAJESTY THE QUEEN OF THE NETHERLANDS:

MR. D. U. STIKKER, Minister for Foreign Affairs,

MR. J. R. M. VAN DEN BRINK, Minister of Economic Affairs :

WHO, having exchanged their full powers, found in good and due form,  
have agreed to the following provisions.

# Title One

## THE EUROPEAN COAL AND STEEL COMMUNITY

### ARTICLE 1

By the present Treaty the High Contracting Parties establish among themselves a European Coal and Steel Community, founded upon a common market, common objectives and common institutions.

### ARTICLE 2

The European Coal and Steel Community shall be charged with the duty of contributing to economic expansion, the growth of employment, and a rising standard of living in Member States, in harmony with the general economy of Member States and through the creation of a common market in accordance with the provisions of Article 4.

The Community shall progressively establish conditions which will themselves ensure the most rational distribution of production at the highest possible level of productivity, while safeguarding continuity of employment and avoiding the creation of fundamental and persistent disturbances in the economies of Member States.

### ARTICLE 3

The Community's institutions shall within the limits of their respective competence and in the common interest:

- (a) seek to ensure that the Common Market is regularly supplied, taking account of the needs of third countries;
- (b) assure to all consumers in comparable situations within the Common Market equal access to the sources of production;
- (c) seek the establishment of the lowest possible prices in conditions which do not result in corresponding increases in the prices charged by the same undertaking in other transactions or in the general price level at other times, while allowing for necessary amortization and providing opportunities for a normal return on invested capital;
- (d) seek to maintain conditions which will encourage undertakings to expand and improve their productive capacity and to promote a policy of rational exploitation of natural resources avoiding unplanned exhaustion;
- (e) promote the improvement of the living and working conditions of labour in each of the industries for which it is responsible, enabling them to achieve equality in the process;
- (f) promote the development of international trade and seek to ensure that equitable limits are observed in prices charged in markets outside the Community;
- (g) promote the regular expansion and the modernisation of production as well as the improvement of quality, under conditions which preclude any protection from competing industries unless it is justified by unlawful action by or on behalf of such industries.

#### ARTICLE 4

The following practices are hereby abolished and prohibited within the Community, as incompatible with the common market for Coal and Steel, under the conditions laid down in the present Treaty:

- (a) import and export duties, or charges having equivalent effect, and quantitative restrictions on the movement of products;
- (b) measures or practices which discriminate between producers, between purchasers and between consumers especially as regards price and delivery terms or transport rates, as well as measures or practices which hamper the purchaser in the free choice of his supplier;
- (c) subsidies or assistance granted by States or special financial burdens imposed by them in any form whatsoever;
- (d) restrictive practices tending towards the sharing or exploitation of markets.

#### ARTICLE 5

The Community shall carry out its duties, as laid down in the present Treaty, with a limited degree of intervention.

To this end the Community shall:

Inform and facilitate the action of the parties concerned, by gathering information, organising consultation, and defining general objectives;

Place means of financing schemes at the disposal of undertakings for their investments and participate in the expenses of readaptation;

Ensure the establishment, maintenance and observance of normal competitive conditions and only interfere directly with production or the operation of the market when circumstances make it imperative to do so;

Publish the reasons for its actions and take the necessary measures to ensure the observance of the rules laid down in the present Treaty.

The Community's institutions shall carry out these activities with a minimum of administrative machinery and in close cooperation with interested parties.

#### ARTICLE 6

The Community shall have legal personality.

In its international relations the Community shall enjoy the legal capacity necessary to perform its duties and to achieve its ends.

In each of the member States, the Community shall enjoy the most extensive legal capacity granted to legal persons in that country and in particular may acquire and transfer immovable and moveable property, and may sue and be sued in its own name.

The Community shall be represented by its institutions each within the limits of its competence.

## Title II

### THE COMMUNITY'S INSTITUTIONS

#### ARTICLE 7

The Community's Institutions shall be:

- A HIGH AUTHORITY, assisted by a Consultative Committee;
- A COMMON ASSEMBLY, hereinafter referred to as "the Assembly";
- A SPECIAL COUNCIL OF MINISTERS, hereinafter referred to as "the Council";
- A COURT OF JUSTICE, hereinafter referred to as "the Court".

#### CHAPTER I—THE HIGH AUTHORITY

#### ARTICLE 8

The High Authority shall be charged with the duty of ensuring the attainment of the objects set out in the present Treaty under the conditions laid down therein.

#### ARTICLE 9

The High Authority shall consist of nine members appointed for six years and chosen for their general competence. Retiring members may be reappointed. The number of members of the High Authority may be reduced by a unanimous decision of the Council.

Only nationals of Member States may be members of the High Authority.

The High Authority may not include more than two members having the nationality of the same State.

The members of the High Authority shall perform their duties in a completely independent manner and in the general interests of the Community.

In the performance of their duties they shall neither seek nor take instructions from any government or from any organisation. They shall refrain from any action incompatible with the supra-national nature of their duties.

Each Member State undertakes to respect this supra-national character and to abstain from seeking to influence the members of the High Authority in the performance of their duties.

Members of the High Authority may not engage in any other paid or unpaid occupation, nor acquire nor hold, directly or indirectly, any interest in any business related to coal and steel during their term of office nor for a period of three years after ceasing to hold office.

#### ARTICLE 10

The Governments of Member States shall appoint eight members of the High Authority by agreement among themselves. These eight members shall appoint a ninth member who shall be duly elected if he receives at least five votes.

Members so appointed shall remain in office for a period of six years from the date of the establishment of the common market.

In the event of a vacancy occurring during this first period for one of the reasons set out in Article 12 it shall be filled, in accordance with the provisions of the third paragraph of that Article, by agreement among the Governments of the Member States.

If, during the same period, the provisions of the third paragraph of Article 24 are implemented, the members of the High Authority shall be replaced in accordance with the provisions of the first paragraph of the present Article.

When this period ends a general renewal of membership shall take place, and the nine members shall be appointed as follows: the Governments of Member States, failing unanimous agreement, shall appoint eight members by a five-sixths majority; the ninth shall be chosen by co-option as provided for in the first paragraph of this Article. The same procedure shall be followed in the event of a complete renewal of membership being made necessary in accordance with Article 24.

Renewal of members of the High Authority shall operate by thirds every two years.

Whenever a general renewal of membership occurs, the order of retirement shall be immediately determined by lot on the initiative of the President of the Council.

The regular renewals resulting from the expiry of the two-yearly periods shall be made alternately in the following order: by appointment by the Governments of Member States as provided for in the fifth paragraph of the present Article, then by co-option in accordance with the provisions of the first paragraph.

In the event of vacancies occurring for one of the reasons set out in Article 12 they shall be filled, as provided for in the third paragraph of that Article, alternately in the following order: by appointment by the Governments of Member States in accordance with the fifth paragraph of this Article, then by co-option in accordance with the provisions of the first paragraph.

In all cases provided for in the present Article in which an appointment is made by a decision of the Governments by five-sixths majority or by means of co-option each Government shall have a right of veto subject to the following conditions:

If a Government has used its right of veto with respect to two persons in the case of individual appointment, and of four persons in the case of a general or biennial renewal of membership, any further exercise of that right on the occasion of the same renewal of membership may be referred to the Court by another Government; the Court may declare the veto invalid if it considers that the right of veto has been abused.

Unless compulsorily retired from office in accordance with the provisions of the second paragraph of Article 12, members of the High Authority shall remain in office until provision has been made for their replacement.

## ARTICLE 11

The President and the Vice President of the High Authority shall be appointed from among the members of the High Authority for two years, in accordance with the same procedure as that laid down for the appointment of members of the High Authority by the Governments of Member States. Their appointments may be renewed.

Except in the case of a general renewal of the membership of the High Authority, the appointment of the President and Vice President shall be made after consultation with the High Authority.

## ARTICLE 12

Apart from retirements in rotation, termination of appointment of a member of the High Authority shall be by death or resignation.

Members who no longer fulfil the conditions required for the performance of their duties or who are guilty of serious misconduct may be compulsorily retired by the Court at the request of the High Authority or the Council.

In the circumstances provided for in the present Article, the vacancy left by the member in question shall be filled for the remainder of the normal term of office in accordance with the procedure laid down in Article 10. The vacancy shall not be filled if the remainder of the term of office is less than three months.

## ARTICLE 13

The High Authority shall decide by vote of a majority of its members.

Its quorum shall be fixed by its rules of procedure provided that this quorum must be greater than one-half of its members.

## ARTICLE 14

In carrying out the duties assigned to it by the present Treaty and in accordance with the provisions thereof, the High Authority shall take decisions, make recommendations and issue opinions.

Decisions shall be binding in all respects.

Recommendations shall be binding with respect to the objectives which they prescribe but shall leave those to whom they are directed free to choose appropriate means for attaining these objectives.

Opinions shall not be binding.

When the High Authority is empowered to take a decision, it may restrict itself to making a recommendation.

## ARTICLE 15

Decisions, recommendations and opinions of the High Authority shall include the reasons therefor, and shall refer to the advice which the High Authority is required to obtain.

When such decisions and recommendations are individual in character, they shall be binding on the party concerned upon being notified to it.

In other cases, they shall take effect automatically upon publication.

The High Authority shall determine the manner in which the provisions of the present Article are to be carried out.

## ARTICLE 16

The High Authority shall take all appropriate administrative measures to ensure that its services work properly.

It may set up Study Groups and in particular an Economic Study Group.

Within the scope of general rules of organisation, adopted by the High Authority, the President of the High Authority shall be responsible for the administration of its services and for giving effect to its rulings.

## ARTICLE 17

The High Authority shall publish annually, at least one month before the Assembly's session opens, a general report on the Community's activities and administrative expenses.

## ARTICLE 18

A Consultative Committee attached to the High Authority shall be set up. It shall consist of not less than thirty and not more than fifty-one members, who shall be producers, workers, consumers and merchants in equal numbers.

The members of the Consultative Committee shall be appointed by the Council.

As regards producers and workers, the Council shall designate the representative organizations among which it shall distribute the seats to be filled. Each organization shall be asked to draw up a list comprising twice the number of seats allotted to it. Appointments shall be made from this list.

The members of the Consultative Committee shall be appointed in their individual capacity for a period of two years. They shall not be bound by any mandate or instruction from the organizations which nominated them.

The Consultative Committee shall appoint its Chairman and officers from among its members for a period of one year. The Committee shall adopt its own rules of procedure.

The allowances of members of the Consultative Committee shall be determined by the Council on the proposal of the High Authority.

## ARTICLE 19

The High Authority may consult the Consultative Committee on any matter as it thinks fit. It shall do so whenever such consultation is prescribed by the present Treaty.

The High Authority shall submit to the Consultative Committee the general objectives and programmes drawn up under the terms of Article 46, and shall keep the Committee informed of its broad lines of action under the terms of Articles 54, 65 and 66.

If the High Authority considers it necessary it shall fix a time limit within which the Consultative Committee should present its advice. Such limit shall not be less than 10 days from the date of the notification to that effect addressed to the Chairman of the Committee.

The Consultative Committee shall be convened by its Chairman either at the request of the High Authority or at the request of the majority of its members for the purpose of discussing a specific question.

The minutes of the Committee's proceedings shall be sent to the High Authority and to the Council at the same time as the opinion of the Committee.

## CHAPTER II—THE ASSEMBLY

### ARTICLE 20

The Assembly, which shall consist of representatives of the peoples of the States united within the Community, shall exercise the supervisory powers which are conferred upon it by the present Treaty.

### ARTICLE 21(1)

1. The Assembly shall consist of delegates whom the Parliament shall be called upon to appoint from among their members in accordance with the procedure laid down by each Member State.

2. The number of these delegates shall be as follows:

Belgium	...	...	...	...	...	14
France	...	...	...	...	...	36
Germany	...	...	...	...	...	36
Italy	...	...	...	...	...	36
Luxembourg	...	...	...	...	...	6
Netherlands	...	...	...	...	...	14

3. The Assembly shall draw up proposals for elections by direct universal suffrage in accordance with a uniform procedure in all Member States.

4. The Council shall unanimously determine the provisions which it shall recommend to Member States for adoption in accordance with their respective constitutional requirements.

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(1) The former Article 21, abrogated and replaced in accordance with Article 2, paragraph 2 of the Convention of the 25th of March, 1957, relating to certain institutions common to the European communities, read as follows:

"The Assembly shall be composed of delegates whom the Parliaments shall be called upon to appoint once a year from among their own members, or who shall be elected by direct universal suffrage, according to the procedure determined by each High Contracting Party.

The number of these delegates is laid down as follows:

Belgium	...	...	...	...	...	10
France	...	...	...	...	...	18
Germany	...	...	...	...	...	18
Italy	...	...	...	...	...	18
Luxembourg	...	...	...	...	...	4
The Netherlands	...	...	...	...	...	10

The representatives of the population of the Saar are included in the number of delegates allotted to France."

#### ARTICLE 22

The Assembly shall hold an annual session. It shall meet automatically on the second Tuesday in May. The session may not last beyond the end of the current financial year.

The Assembly may be convened in extraordinary session at the request of the Council in order to issue an opinion on such questions as may be put to it by the Council.

It may also meet in extraordinary session at the request of a majority of its members or of the High Authority.

#### ARTICLE 23

The Assembly shall appoint its President and officers from among its members.

Members of the High Authority may attend all meetings. The President of the High Authority or such of its members as it may appoint shall be heard at their request.

The High Authority shall reply orally or in writing to questions put to it by the Assembly or by its members.

The members of the Council may attend all meetings and shall be heard at their request.

#### ARTICLE 24

The Assembly shall discuss in open session the general report which shall be submitted to it by the High Authority.

If a vote of censure on the report is tabled in the Assembly no vote shall be taken thereon until not less than three days after it was tabled and this vote shall be by open ballot.

If the vote of censure is carried by a two-thirds majority of the votes cast and representing a majority of the members of the Assembly the members of the High Authority shall collectively resign their office. They shall continue to deal with current business until they are replaced in accordance with Article 10.

#### ARTICLE 25

The Assembly shall decide its own rules of procedure, by a vote of a majority of its total membership.

The Assembly's proceedings shall be published in accordance with such rules of procedure.

### CHAPTER III—THE COUNCIL

#### ARTICLE 26

The Council shall carry out its duties in the cases provided for and in the manner laid down by this Treaty, with a view in particular to harmonising the actions of the High Authority and those of the Governments which are responsible for the general economic policy of their countries.

To this end, the Council and the High Authority shall exchange information and consult together.

The Council may request the High Authority to examine any proposals and measures which it may consider appropriate or necessary for the realisation of the common objectives.

#### ARTICLE 27

The Council shall consist of representatives of the Member States. Each State shall appoint thereto one of the members of its Government.

The Presidency of the Council shall be exercised for a term of three months by each member of the Council in rotation in the alphabetical order of the Member States.

#### ARTICLE 28<sup>(1)</sup>

Meetings of the Council shall be convened by its President at the request of a Member State or of the High Authority.

When the Council is consulted by the High Authority, its discussion need not necessarily lead to a vote. The minutes of its proceedings shall be forwarded to the High Authority.

Wherever the present Treaty requires a confirmatory opinion by the Council, such opinion shall be deemed to have been given if the proposal submitted by the High Authority receives the approval:

- of an absolute majority of the representatives of the Member States, including the vote of the representative of one of the States which produce at least one sixth of the total value of coal and steel produced in the Community;
- or, in case of an equal division of votes and if the High Authority maintains its opinion after a second discussion, of the representatives of two Member States, each of which produces at least one sixth of the total value of coal and steel produced in the Community.

Wherever the present Treaty requires a unanimous decision or a unanimous confirmatory opinion, such decision or opinion shall take effect if it receives the votes of all the members of the Council.

The decisions of the Council, other than those which require a qualified majority or unanimity, shall be taken by a vote of the majority of the total membership. This majority shall be deemed to be secured if it includes the absolute majority of the representatives of the Member States including the vote of the representative of one of the States which produce at least one sixth of the total value of coal and steel produced in the Community.

In case of a vote, any member of the Council may act as proxy for not more than one other member.

<sup>(1)</sup> Modified by Article 2 of the Treaty, modifying the Treaty establishing the European Coal and Steel Community, signed at Luxembourg October 27, 1956, and ratified by all the member States of the European Coal and Steel Community. The last Government deposited its Instrument of Ratification with the Government of the French Republic on October 9, 1958.

Article 2 in question provides "the words 'twenty per cent.' which appear in Article 28 of the Treaty of April 18, 1951, are replaced by the words 'one sixth.'"

The Council shall communicate with the Member States through its President.

The Council's proceedings shall be published in such a manner as it may decide.

#### ARTICLE 29

The Council shall determine the salaries, allowances and pensions of the President and members of the High Authority, and of the President, judges, advocates-general and the Registrar of the Court.

#### ARTICLE 30

The Council shall draw up its own rules of procedure.

### CHAPTER IV—THE COURT

#### ARTICLE 31

The Court shall ensure the observance of law in the interpretation and implementation of the present Treaty and of the Regulations for giving effect to it.

#### ARTICLE 32<sup>(1)</sup>

The Court shall consist of seven judges.

The Court shall sit in plenary session (*séance plénière*). It may, however, set up within itself sections each consisting of three or five judges, either to conduct particular enquiries (*instruction*) or to judge particular classes of cases in accordance with the provisions of a Regulation adopted for this purpose.

The Court shall, however, always sit in plenary session to hear cases submitted to it by a Member State or by one of the institutions of the Community or to deal with preliminary questions submitted to it pursuant to Article 41.

Should the Court so request, the Council may, unanimously resolve to increase the number of judges and make the consequential amendments to the second and third paragraphs of this Article and Article 32 (b), second paragraph.

#### ARTICLE 32 (a)

The Court shall be assisted by two advocates-general.

It shall be the duty of the advocate-general to make reasoned submissions (*conclusions*) in open Court on matters referred to the Court. He shall do

(1) The former Article 32, replaced in accordance with Article 4, paragraph 2 of the Convention of March 25, 1957, relating to certain institutions common to the European communities read as follows:

"The Court shall consist of seven judges appointed by common agreement by the Governments of the Member States for a term of six years from persons whose independence and competence can be fully guaranteed.

The partial replacement shall take place every three years. Three and four members shall be replaced alternately. The three members whose terms of office are to expire at the end of the first three-yearly period shall be chosen by lot.

Retiring judges may be re-appointed.

The number of judges may be increased by unanimous decision of the Council on the proposal of the Court.

The judges shall appoint from among their members the President of the Court for the term of three years."

so with complete impartiality and independence, with a view to helping the Court to achieve the task assigned to it by Article 31.

Should the Court so request, the Council may unanimously resolve to increase the number of advocates-general and make the necessary amendments to Article 32 (b), third paragraph.

#### ARTICLE 32 (b)

The judges and advocates-general shall be chosen from persons whose independence can be fully guaranteed and who fulfil the conditions required for the holding of the highest judicial functions (*fonctions jurisdictionnelles*) in their respective countries or who are legal experts of universally recognised and outstanding ability; they shall be appointed by mutual agreement by the Governments of Member States for a term of six years.

A partial replacement of the Judges shall take place every three years. Three and four judges shall be replaced alternately. The three judges whose terms of office are to expire at the end of the first period of three years shall be chosen by lot.

A partial replacement of the advocates-general shall take place every three years. The advocate-general whose term of office is to expire at the end of the first period of three years shall be chosen by lot.

The retiring judges and advocates-general shall be eligible for reappointment.

The judges shall appoint from among their members the President of the Court for a term of three years. Such appointment shall be renewable.

#### ARTICLE 32 (c)

The Court shall appoint its Registrar and determine his status and terms of service.

#### ARTICLE 33

The Court shall be empowered to entertain applications by one of the Member States or by the Council, to quash decisions and recommendations of the High Authority on the grounds of lack of jurisdiction, violations of basic procedural rules, violation of the Treaty or of any rule of law relating to giving effect to it, or misuse of powers. However, the investigation of the Court may not cover the evaluation of the situation, resulting from economic facts and circumstances, in the light of which such decisions or recommendations were taken, except where the High Authority is accused of having misused its powers or of having patently misinterpreted the provisions of the Treaty or of any rule of law relating to giving effect to it.

The undertakings or associations referred to in Article 48 may similarly appeal against individual decisions and recommendations in which they are concerned or against general decisions and recommendations which they consider to involve a misuse of powers affecting them.

The proceedings provided for in the first two paragraphs of the present Article shall be instituted within one month from the date of notification or publication, as the case may be, of the decision or recommendation.

#### ARTICLE 34

If the Court quashes a decision or recommendation it shall refer the matter back to the High Authority. The latter shall be responsible for taking the measures required for the enforcement of the decision of annulment. If direct and special injury is suffered by an undertaking or a group of undertakings because of a decision or recommendation, held by the Court to involve a fault of such a nature as to render the Community liable, the High Authority shall, using the powers which are conferred upon it by the provisions of the present Treaty, take suitable measures to ensure equitable redress for the injury resulting directly from the decision or recommendation which has been annulled, and, as far as may be necessary, to grant fair damages.

If the High Authority fails to take within a reasonable period the measures required to enforce a decision of annulment proceedings for damages may be brought before the Court.

#### ARTICLE 35

Wherever the High Authority is required by a provision of the present Treaty, or of the Regulations for giving effect to it, to take a decision or make a recommendation and fails to fulfil this obligation the omission may be brought to its attention by the States, the Council or the undertakings and associations, as the case may be.

The same shall apply if the High Authority abstains from taking a decision or making a recommendation, when it is empowered to do so by a provision of the present Treaty or the Regulations for giving effect to it and such abstention constitutes a misuse of powers.

If at the end of two months the High Authority has not taken any decision or made any recommendation an appeal may be made to the Court, within one month, against the implicit negative decision presumed to result from such failure to act.

#### ARTICLE 36

Before imposing one of the financial sanctions or penalties provided for in the present Treaty, the High Authority must give the party concerned an opportunity to state his case.

An appeal to the general jurisdiction (*pleine juridiction*) of the Court may be lodged against the financial sanctions and penalties imposed under the provisions of the present Treaty.

In support of such an appeal and under the terms of the first paragraph of Article 33 of the present Treaty the plaintiffs may contest the legality of the decisions and recommendations which they are charged with violating.

#### ARTICLE 37

If a Member State considers that in a given case an action of the High Authority or a failure to act is of such a nature as to provoke fundamental and persistent disturbances in its economy it may bring the matter to the attention of the High Authority.

If this is the case, the High Authority, after consulting the Council, shall make a finding to this effect and decide on the measures to be taken, under the terms of the present Treaty, to correct such a position or to put matters right, while at the same time safeguarding the Community's essential interests.

When an appeal is made to the Court under the provisions of the present Article against such a decision or against an explicit or implicit refusal to recognise the existence of the situation referred to above the Court shall consider whether the decision is justified.

If the Court annuls the decision, the High Authority shall, within the terms of the Court's decision, decide on the measures to be taken for the purposes laid down in the second paragraph of the present Article.

#### ARTICLE 38

On the application of a Member State or of the High Authority, the Court may quash resolutions of the Assembly or of the Council.

Such applications shall be made within one month from the publication of such a resolution by the Assembly or the notification of such a resolution by the Council to the Member States or to the High Authority.

The sole ground for such application shall be lack of jurisdiction or non-observance of basic procedural rules.

#### ARTICLE 39

The institution of proceedings shall not cause a judgment to be suspended.

The Court may, however, if it considers that circumstances so require, order that the enforcement of the decision or recommendation contested be suspended.

The Court may prescribe any other necessary interim measures.

#### ARTICLE 40

Subject to the provisions of the first paragraph of Article 34, the Court shall be competent to award pecuniary damages against the Community, on the application of the injured party, in cases where injury results from a wrongful act performed on behalf of the Community in the carrying out of the present Treaty.

It shall also be competent to award damages against a servant of the Community in cases where injury results from a wrongful act of that servant in the performance of his duties. If the injured party is unable to recover such damages from the servant the Court may award equitable damages against the Community.

Any litigation arising between the Community and third parties, not arising out of the present Treaty and the Regulations for giving effect to it, shall be brought before the national courts.

#### ARTICLE 41

The Court shall have sole jurisdiction to give preliminary rulings (*à titre préjudiciel*) on the validity of resolutions of the High Authority and of the Council, where such validity is challenged in a suit brought before a national court.

#### ARTICLE 42

The Court shall be competent to make a decision pursuant to any arbitration clause contained in a contract concluded under public or private law (*droit public ou droit privé*) by or on behalf of the Community.

#### ARTICLE 43

The Court shall be competent to decide in any other case provided for by a supplementary provision of the present Treaty.

It may also decide in all cases relating to the purposes of the present Treaty where jurisdiction is conferred upon it by the law of a Member State.

#### ARTICLE 44

The judgments of the Court shall be enforceable in the territory of Member States in accordance with the terms of Article 92 below.

#### ARTICLE 45

The Statute of the Court shall be laid down in a Protocol annexed to the present Treaty.

# Title III

## ECONOMIC AND SOCIAL PROVISIONS

### CHAPTER I—GENERAL PROVISIONS

#### ARTICLE 46

The High Authority may at any time consult Governments, the different parties concerned (undertakings, workers, consumers and merchants) and their associations, as well as any experts.

Undertakings, workers, consumers and merchants, and their associations shall be entitled to present any suggestions or observations to the High Authority on questions affecting them.

In order to provide guidance for the actions of all parties concerned in carrying out the tasks assigned to the Community and in order to determine its own actions, within the conditions laid down in the present Treaty, the High Authority shall, by means of the consultations mentioned above:

- (1) maintain a constant study of the development of markets and price trends;
- (2) periodically draw up provisional programmes giving forecasts, for guidance, of production, consumption, exports and imports;
- (3) periodically set out the general objectives with respect to modernisation, long-term planning of manufacture and the expansion of productive capacity;
- (4) take part, at the request of the Governments concerned, in the study of the possibilities of re-employing, in existing industries or through the creation of new activities, labour made redundant by reason of the development of the market or technical changes;
- (5) collect information required to assess the possibilities of improving the living and working conditions of the labour force in the industries for which it is responsible, and the factors threatening their living conditions.

It shall publish the general objectives and programmes after submitting them to the Consultative Committee.

It may publish the studies and information mentioned above.

#### ARTICLE 47

The High Authority may collect the information necessary to carry out its duties. It may take the necessary steps to verify such information.

The High Authority shall not divulge information which by its nature is subject to trade secrecy (*secret professionnel*), and in particular information relating to undertakings and concerning their commercial relations or the details of their costs of production. With this reservation, it shall publish such data as may be useful to Governments or to any other parties concerned.

The High Authority may impose fines and financial penalties upon those undertakings which evade the obligations resulting from decisions made in pursuance of this Article, or which knowingly furnish false information. The maximum amount of such fines shall be 1 per cent. of the annual turnover and the maximum amount of such financial penalties shall be 5 per cent. of the average daily turnover for each day's delay.

Any violation by the High Authority of trade secrecy which has caused damage to an undertaking may be the subject of a suit for damages before the Court under the conditions provided for in Article 40.

#### ARTICLE 48

The right of undertakings to form associations is not affected by the present Treaty. Membership in such associations must be voluntary. They may engage in any activity which is not contrary to the provisions of the present Treaty or to the decisions or recommendations of the High Authority.

In cases where the present Treaty requires the Consultative Committee to be consulted, any association has the right to submit to the High Authority, within such time limits as the latter may fix, the comments of its members on the action proposed.

To obtain information which it needs, or to facilitate the fulfilment of the tasks entrusted to it, the High Authority shall normally call upon producers' associations provided, either that they provide for accredited representatives of workers and consumers to sit on their governing bodies or on consultative committees attached to them, or that they make satisfactory provision in any other way in their organisation for the interests of workers and consumers to be expressed.

The associations referred to in the preceding paragraph shall furnish the High Authority with such information on their activities as it may consider necessary. The comments mentioned in the second paragraph of this Article and the information furnished under the fourth paragraph shall also be forwarded by such associations to the Government concerned.

### CHAPTER II—FINANCIAL PROVISIONS

#### ARTICLE 49

The High Authority is empowered to procure the funds required to carry out its duties:

- by imposing levies on the production of coal and steel;
- by contracting loans.

It may also receive grants.

## ARTICLE 50

1. The levies are intended to cover:
  - the administrative expenses provided for in Article 78;
  - the non-repayable assistance, provided for in Article 56, relating to readaptation;
  - in respect of the financing facilities provided for in Articles 54 and 56, and after recourse to the reserve fund, any portion of the interest charges on money borrowed by the High Authority which may not be covered by interest on loans granted by the High Authority, as well as any payments which may fall to be made in fulfilment of the High Authority's guarantee on loans contracted directly by undertakings;
  - expenditure devoted to encouraging technical and economic research as provided for in Article 55 (2).
2. The levies shall be assessed annually on the various products according to their average value, provided that the rate of the levy may not exceed one per cent. unless previously authorised by a two-thirds majority of the Council. The method of assessment and collection shall be fixed by a general decision of the High Authority taken after consulting the Council; as far as possible, cumulative taxation shall be avoided.
3. The High Authority may impose increases of not more than 5 per cent. for each three months delay in payment, upon undertakings which do not obey the decisions taken by it in pursuance of this Article.

## ARTICLE 51

1. The funds obtained by borrowing may be used by the High Authority only to grant loans.

The issue of loans by the High Authority on the markets of Member States shall be subject to the rules in force on these markets.

If the High Authority considers the guarantee of member Governments necessary in order to contract certain loans it shall approach the Government or Governments concerned after consulting the Council. No State shall be obliged to give its guarantee.

2. In accordance with the terms of Article 54, the High Authority may guarantee loans granted directly to undertakings by third parties.

3. The High Authority may adjust its terms for loans or guarantees in order to build up a reserve fund for the sole purpose of reducing the size of the levy provided for in Article 50 (1) third sub-paragraph provided that the sums thus accumulated may not be used in any way to grant loans to undertakings.

4. The High Authority shall not itself engage in the banking operations required to carry out its financial tasks.

## ARTICLE 52

Member States shall take all appropriate measures to ensure the free transfer within the territories mentioned in the first paragraph of Article 79,

in accordance with the procedure adopted for commercial payments, of funds derived from the levies, financial sanctions and penalties and the reserve fund, to the extent necessary to enable them to be used for the purposes for which they are intended in accordance with the present Treaty.

The procedure for making transfers of funds both between Member States and to third countries, resulting from other financial operations carried out by the High Authority or under its guarantee, shall be the subject of agreements made by the High Authority with the Member States concerned or the competent organizations, provided that no Member State which applies exchange controls shall be obliged to permit transfers which it has not explicitly undertaken to permit.

#### ARTICLE 53

Without prejudice to the provisions of Article 58 and of Chapter 5 of Title III, the High Authority may:

- (a) after consulting the Consultative Committee and the Council, authorise the creation, on terms which it shall determine and under its supervision, of any financial arrangements common to several undertakings which it considers necessary in order to carry out the duties set out in Article 3 and which are consistent with the provisions of the present Treaty, and in particular of Article 65;
- (b) on receiving a unanimous confirmatory opinion from the Council, itself make any financial arrangements answering the same purposes.

Arrangements of this kind which are set up or maintained by Member States shall be notified to the High Authority which, after consulting the Consultative Committee and the Council, shall make the necessary recommendations to the States concerned, if such arrangements are in whole or in part contrary to the present Treaty.

### CHAPTER III—INVESTMENTS AND FINANCIAL ASSISTANCE

#### ARTICLE 54

The High Authority may facilitate the carrying out of investment programmes by granting loans to undertakings or by giving its guarantee to other loans which they may contract.

Upon receiving a unanimous confirmatory opinion from the Council, the High Authority may by the same means assist the financing of works and installations which directly help, and whose main object it is to help, to increase production, to reduce production costs or to facilitate the marketing of products over which it has authority.

In order to encourage the co-ordinated development of investments, the High Authority may, in accordance with the provisions of Article 47, require undertakings to inform it of individual projects in advance, either by a special request addressed to the undertaking concerned or by a decision defining the nature and the size of the projects of which it must be informed.

The High Authority may, after giving the parties concerned every opportunity to present their views, issue a reasoned opinion on such projects within the scope of the general objectives referred to in Article 46. It shall be obliged to issue such an opinion when so requested by the undertaking concerned. The High Authority shall send such opinion to the undertaking concerned and shall bring it to the attention of the said undertaking's Government. A list of such opinions shall be published.

If the High Authority finds that the financing of a project or the operation of the installations which it would entail would involve subsidies, assistance, protection or discrimination prohibited by the present Treaty its unfavourable opinion based on these grounds shall have the force of a decision, as defined in Article 14, and shall have the effect of prohibiting the undertaking concerned from resorting to resources other than its own funds to carry out such a project.

The High Authority may impose on undertakings which infringe the prohibition provided for in the foregoing paragraph fines not exceeding the sums improperly devoted to carrying out the project in question.

#### ARTICLE 55

1. The High Authority shall encourage technical and economic research and development as regards the production and the development of consumption of coal and steel, as well as occupational hazards in these industries. To this end it shall organise all appropriate contacts among existing research organizations.

2. After consulting the Consultative Committee, the High Authority may initiate and facilitate the development of such research work:

- (a) by encouraging joint financing by the undertakings concerned ; or
- (b) by allotting for that purpose any grants it may receive ; or
- (c) upon receiving a confirmatory opinion from the Council, by allotting for that purpose funds derived from the levies provided for in Article 50, without, however, exceeding the limit defined in section 2 of that Article.

The results of the research financed under the conditions set forth in subparagraphs (b) and (c) above shall be placed at the disposal of all the parties concerned in the Community.

3. The High Authority shall publish any information useful for making technical improvements more widely known, particularly with regard to the exchange of patents and the granting of licences.

#### ARTICLE 56

1. If the introduction of technical processes or new equipment, within the scope of the general objectives laid down by the High Authority, should lead to an exceptionally large reduction in labour requirements in the coal

or steel industries, making it especially difficult in one or more areas to re-employ workers made redundant, the High Authority, at the request of the Governments concerned:

- (a) shall consult the Consultative Committee;
- (b) may facilitate, in the manner laid down in Article 54, the financing of such programmes as it may approve for the creation, either in the industries over which it has authority or, upon receiving a confirmatory opinion from the Council, in any other industry, of new and economically sound activities capable of providing productive employment for the workers made redundant;
- (c) shall make a non-repayable grant as a contribution to:
  - the payment of compensation to tide the workers over until they can obtain new employment;
  - the payment of resettlement allowances to workers;
  - the financing of technical re-training for workers who are led to change their employment.

The High Authority shall make the allotment of non-repayable grants conditional upon payment by the State concerned of a special contribution at least equal to the amount of such assistance, unless an exception is authorised by a two-thirds majority of the Council.

2. If, in the coal or steel industries fundamental changes in marketing conditions, which are not directly bound up with the establishment of the common market, force certain undertakings once and for all to cease, reduce or alter their activities, the High Authority, at the request of the interested Governments:

- (a) may facilitate, in the manner laid down in Article 54, the financing of such programmes as it may approve for the creation, either in the industries over which it has authority or, with the agreement of the Council, in any other industry, of new and economically sound activities or for the remodelling of existing undertakings, capable of providing productive re-employment for the workers made redundant;
- (b) may make a non-repayable grant to contribute to:
  - the payment of compensation to tide the workers over until they can obtain new employment;
  - measures to ensure, by means of allowances to undertakings, that their personnel will be paid in the case of temporary laying-off, necessitated by changes in their activities;
  - the payment of resettlement allowances to workers;
  - the financing of technical retraining for workers who are led to change their employment.

The High Authority shall make the allotment of non-repayable grants conditional upon payment by the State concerned of a special contribution at least equal to the amount of such assistance, unless an exception is authorized by a two-thirds majority of the Council.

## CHAPTER IV—PRODUCTION

### ARTICLE 57

In the field of production, the High Authority shall resort for preference to the indirect means of action at its disposal, such as:

- co-operation with Governments to stabilise or influence general consumption, particularly that of the public services;
- intervention on prices and commercial policy as provided for in the present Treaty.

### ARTICLE 58

1. In case of a decline in demand, if the High Authority considers that the Community is faced with a period of manifest crisis and that the means of action provided for in Article 57 are not sufficient to deal with this situation, it shall, after consulting the Consultative Committee and receiving a confirmatory opinion from the Council, establish a system of production quotas, accompanied, as far as may be necessary, by the measures provided for in Article 74.

If the High Authority fails to act, one of the Member States may bring the matter to the attention of the Council which, acting unanimously, may oblige the High Authority to establish a system of quotas.

2. The High Authority, on the basis of studies made in conjunction with the undertakings and their associations, shall establish quotas on an equitable basis, taking account of the principles defined in Articles 2, 3 and 4. The High Authority may in particular regulate the level of activity of the undertakings by appropriate levies on tonnages exceeding a reference level fixed by a general decision.

The sums thus obtained shall be used to subsidise undertakings whose rate of production has dropped below the reference level, with a view to ensuring as far as possible the maintenance of employment in these undertakings.

3. The system of quotas shall be ended upon a proposal addressed to the Council by the High Authority after consulting the Consultative Committee, or by the Government of one of the Member States, unless the Council decides to the contrary; such a decision shall be unanimous, if the proposal originates with the High Authority, or by simple majority if the proposal originates with a Government. The ending of the quota system shall be published by the High Authority.

4. The High Authority may impose upon any undertakings violating the decisions which it takes under this Article fines not exceeding the value of the unauthorised production.

### ARTICLE 59

1. If, after consulting the Consultative Committee, the High Authority finds that the Community is faced with a serious shortage of any or of all of the products over which it has authority, and that the means of

action provided for in Article 57 do not enable it to deal with the position which has arisen, it shall bring it to the attention of the Council, to whom it shall propose the necessary measures, unless the Council unanimously decides to the contrary.

If the High Authority fails to act, one of the Member States may bring the matter before the Council, which by unanimous decision may recognise the existence of the above-mentioned situation.

2. The Council, acting unanimously shall, on the basis of proposals made by the High Authority and in consultation with it, establish consumption priorities and determine the allocation among the industries over which it has authority exports and other consumption of the Community's coal and steel resources.

On the basis of the consumption priorities thus established, the High Authority shall, after consulting the undertakings concerned, draw up production programmes which the undertakings shall be obliged to carry out.

3. If the Council fails to reach a unanimous decision on the measures referred to in 2 above, the High Authority shall itself proceed to allocate the Community's resources among the Member States on the basis of consumption and exports and independently of the place of production.

Within each of the Member States the allocation of the resources assigned by the High Authority shall be carried out on the responsibility of the Government, without affecting the stipulated deliveries to other Member States and subject to consultation with the High Authority concerning the portion of such resources to be assigned to export and to the operation of the coal and steel industries.

If the amounts devoted to exports by a Government are less than the scheduled amounts used as the basis for total allocations to the Member State in question, the High Authority shall as far as necessary redistribute among the Member States the resources thus made available for consumption whenever a new allocation is made.

If a relative reduction in the amounts devoted by a Government to the coal and steel industries results in reducing the production of one of these products in the Community, the allocation of that product to the Member State in question shall be reduced to the extent of the decrease in production for which it is responsible whenever a new allocation is made.

4. In all cases, the High Authority shall be responsible for allocating equitably among undertakings the quantities earmarked for the industries over which it has authority, on the basis of studies undertaken jointly with the undertakings and their associations.

5. Should the situation envisaged in paragraph 1 of the present Article arise, the High Authority may decide to impose restrictions on exports to third countries by the Member States as a whole. It shall do so only in accordance with the provisions of Article 57, after consulting the Consultative Committee and receiving a confirmatory opinion from the Council. If the High Authority fails to act, the Council may unanimously take such a decision upon a Government's proposal.

6. The High Authority may end the system set up in accordance with this Article after consulting the Consultative Committee and the Council. It shall not do so in face of an unfavourable opinion by the Council, if that opinion is unanimous.

If the High Authority fails to act the Council unanimously decide to end the system of allocation.

7. The High Authority may impose upon any undertakings violating the decisions taken in pursuance of this Article, fines not exceeding twice the value of the production or deliveries which have been prescribed but which have not been executed or have been diverted from their proper use.

## CHAPTER V—PRICES

### ARTICLE 60

1. Pricing practices contrary to the provisions of Articles 2, 3 and 4 are prohibited, and in particular:

- unfair competitive practices, in particular purely temporary or purely local price reductions tending towards the acquisition of a monopoly position within the common market;
- discriminatory practices involving, within the common market, the laying down by a seller of unequal conditions in the case of comparable transactions, especially according to the nationality of the buyer.

The High Authority may define the practices covered by this prohibition by decisions taken after consulting the Consultative Committee and the Council.

2. For the above purposes:

- (a) the price-lists and conditions of sale applied by undertakings within the common market must be made public to the extent and in the form prescribed by the High Authority after consulting the Consultative Committee; if the High Authority finds that an undertaking has chosen an abnormal basing point for its price-lists, in particular one which may be covered by (b) below, it shall make the appropriate recommendations to that undertaking.
- (b) The methods of quotation used must not have the effect of introducing into the prices charged by an undertaking in the common market, when reduced to their equivalent at the basing point chosen for the price-list:
  - increases over the price shown by the price-list in question for a comparable transaction; or
  - reductions below this price of which the amount exceeds:
    - either the margin making it possible to align the quotation with the price-list, based on another point, which secures for the buyer the most advantageous conditions at the place of delivery;

—or the limits fixed for each category of product, taking into account their origin and destination, by decision of the High Authority after consulting the Consultative Committee.

Such decision shall be taken when it appears necessary to avoid either disturbances in all or any part of the common market or imbalances resulting from a difference between the methods of quotation used for a product and for materials which enter into its manufacture. Such decision shall not prevent undertakings from aligning their quotations with those of undertakings outside the Community, provided that such transactions are notified to the High Authority which may, in case of abuse, limit or suppress the right of the undertakings concerned to benefit from this exception.

#### ARTICLE 61

On the basis of studies undertaken jointly with undertakings and their associations, in accordance with the provisions of the first paragraph of Article 46 and the third paragraph of Article 48, and after consulting the Consultative Committee and the Council as to the advisability of these measures as well as concerning the price level which they will determine, the High Authority may fix for one or more products over which it has authority:

- (a) maximum prices within the common market, if it finds that such a decision is necessary to attain the objectives defined in Article 3 and particularly in paragraph (c) thereof;
- (b) minimum prices within the common market, if it finds that a manifest crisis exists or is imminent and that such a decision is necessary to attain the objectives defined in Article 3;
- (c) (after consulting with the associations of undertakings concerned, or the undertakings themselves, and acting in accordance with methods adapted to the nature of the export markets): minimum or maximum export prices, if such action can be effectively supervised and appears necessary, both because of dangers to the undertakings as a result of the state of the market, and in order to pursue in international economic relations the objective defined in Article 3 (f), without prejudice, in the case of minimum prices, to the measures provided for in the last paragraph of Article 60 (2).

In fixing prices the High Authority shall take into account the need to ensure the competitive ability both of the coal and steel industries and of the consuming industries, in accordance with the principles stated in Article 3 (c).

If the High Authority should fail to act under the circumstances described above, the Government of one of the Member States may refer the matter to the Council which may, by unanimous decision, request the High Authority to fix such maximum or minimum prices.

## ARTICLE 62

If the High Authority considers that this is the most appropriate way of preventing the price of coal from being established at the level of the production costs of those mines which are most costly to work, but which it has been recognized to be temporarily necessary to maintain in service in order to carry out the duties defined in Article 3, the High Authority may, after consulting the Consultative Committee, authorise compensation schemes:

between undertakings of the same coalfield to which the same price lists apply;

after consulting the Council, between undertakings situated in different coalfields.

Such compensation schemes may, in addition, be set up under the terms of Article 53.

## ARTICLE 63

1. If the High Authority finds that discrimination is being systematically practised by buyers, in particular as a result of provisions governing orders placed by bodies subordinate to public authority, it shall address the necessary recommendations to the Governments concerned.

2. To the extent that it finds necessary, the High Authority may decide that:

(a) undertakings must establish their conditions of sale in such a way that their customers and agents shall undertake that they will comply with the rules established by the High Authority in accordance with the provisions of this Chapter.

(b) undertakings shall be made responsible for breaches of any obligations thus entered into which are committed by their direct agents or by merchants acting on behalf of such undertakings.

In case of a breach committed by a purchaser of the obligations thus entered into the High Authority may limit the right of undertakings within the Community to deal with the said purchaser to a degree which may in case of repetition temporarily deprive him of access to the market. In this case, and without prejudice to the provisions of Article 33, the purchaser has a right of appeal to the Court.

3. In addition, the High Authority is empowered to address to the Member States concerned any recommendations necessary to ensure that all undertakings or organisations engaged in the distribution of coal or steel respect the rules laid down under Article 60 (1).

## ARTICLE 64

The High Authority may impose upon undertakings which violate the provisions of this Chapter or the decisions taken thereunder fines equal to twice the value of the offending sales. In case of repetition, the above maximum may be doubled.

## CHAPTER VI—AGREEMENTS AND CONCENTRATIONS

### ARTICLE 65

1. All agreements between undertakings ; all decisions by associations of undertakings and all concerted practices tending, directly or indirectly, to prevent, restrict or distort the normal operation of competition within the common market are forbidden, and in particular those tending :

- (a) to fix or determine prices ;
- (b) to restrict or control production, technical development or investments ;
- (c) to allocate markets, products, customers or sources of supply.

2. However, the High Authority shall authorise agreements to specialise in the production of, or to engage in the joint buying or selling of, specified products if it finds :

- (a) that such specialisation or such joint buying or selling will contribute to a substantial improvement in the production or distribution of the products in question ; and
- (b) that the agreement in question is essential to achieve these results, and is not more restrictive than is necessary for that purpose ; and
- (c) that it is not capable of giving the undertakings concerned the power to determine prices or to control or limit the production or marketing of a substantial part of the products in question within the common market or of protecting them from effective competition by other undertakings within the common market.

Should the High Authority find that certain agreements are strictly similar, both in kind and effect, to the agreement referred to above it shall authorise such agreements, if it finds that the same conditions apply to them as to the agreements referred to above. When considering such action the High Authority shall pay particular attention to the fact that this paragraph applies to distributive undertakings.

Authorisations may be granted on specified conditions and for a limited period. In such cases the High Authority shall renew authorisations once or several times if it finds that the conditions stated in paragraphs (a) to (c) above still apply at the time of renewal.

The High Authority shall revoke or modify an authorisation if it finds that as a result of a change in circumstances the agreement no longer fulfils the conditions set out above, or that the actual results of the agreement or its execution are contrary to the conditions required for carrying it out.

Decisions granting, renewing, modifying, refusing or revoking an authorisation shall be published together with the reasons therefor ; the prohibition contained in the second paragraph of Article 47 shall not apply in such cases.

3. The High Authority may, in accordance with the provisions of Article 47, obtain any information needed for the purpose of this Article,

either by a special request addressed to the parties concerned or by means of a Regulation setting out the kinds of agreements, decisions or practices which must be notified to it.

4. Any agreement or decision prohibited by Section 1 of the present Article shall be null and void and shall be inadmissible in evidence before any court of any of the Member States.

The High Authority shall have exclusive competence, subject to appeal to the Court to decide whether this Article applies to any such agreement or decision.

5. If any undertaking shall have entered into an agreement which is null and void in law, or shall have enforced or attempted to enforce, by arbitration, forfeiture, boycott or any other means, an agreement or decision which is null and void in law or an agreement for which approval has been refused or revoked or has obtained an authorisation by means of information which it knew to be false or misleading, or has engaged in practices prohibited by paragraph 1 of this Article, the High Authority may impose upon such undertaking fines and financial penalties not to exceed twice the actual turnover on the products which were the subject of the agreement, decision or practice prohibited by this Article. Moreover if the purpose of the agreement is to restrict production, technical development or investments this maximum may be raised to 10 per cent. of the annual turnover of the undertakings in question, in the case of fines, and 20 per cent. of the daily turnover in the case of financial penalties.

#### ARTICLE 66

1. Subject to the provisions of paragraph 3 below, any transaction shall require the prior authorisation of the High Authority if it would in itself have the direct or indirect effect of bringing about a concentration, within the territories mentioned in the first paragraph of Article 79, between undertakings of which at least one is covered by Article 80, whether the transaction is carried out by one person or undertaking or a group of persons or undertakings, whether it concerns a single product or different products, whether it is effected by merger or by the acquisition of shares or assets, loan, contract or any other means of control. For the purpose of the above provisions, the High Authority shall, by means of a Regulation drawn up after consulting the Council, define the meaning of control.

2. The High Authority shall grant the authorisation referred to in the preceding paragraph if it finds that the transaction in question will not give to the persons or undertakings concerned, as regards the product or products subject to its authority the power:

- to determine prices, to exercise control over or restrict production or distribution, or to hinder the maintenance of effective competition in a substantial part of the market for such products ; or
- to evade the rules of competition as they result from the execution of the present Treaty, in particular by establishing an artificially privileged position involving a substantial advantage in access to supplies or markets.

In arriving at its decision and acting in accordance with the principle of non-discrimination laid down in Article 4 (b), the High Authority shall take

account of the size of undertakings of the same kind existing in the Community, to the extent it considers necessary, so as to avoid or correct the disadvantages resulting from unequal competitive conditions.

The High Authority may make such an authorisation subject to any conditions which it considers appropriate for the purposes of the present paragraph.

Before pronouncing upon a transaction affecting undertakings of which at least one is not subject to Article 80, the High Authority shall obtain the views of the Government concerned.

3. The High Authority shall exempt from the requirement of prior authorisation those kinds of transactions which because of the size of the assets or undertakings with which they are concerned, considered together with the kind of concentration which they bring about, in its opinion are covered by the conditions required by paragraph 2. The Regulation drawn up for this purpose, after obtaining a confirmatory opinion from the Council, shall also fix the conditions to which such exemption is to be subject.

4. Without prejudice to the High Authority's right to make use of the provisions of Article 47, in the case of undertakings over which it has authority, it may obtain from natural or legal persons (*personnes physiques ou morales*) who have acquired or regrouped, or are about to acquire or regroup, the rights or assets in question any information required to give effect to this Article as regards operations which may produce the effect mentioned in Section 1; it may do this either by a Regulation drawn up after consulting the Council, which shall define the kind of operations to be notified to it or by a special request to the parties concerned and covered by this Regulation.

5. If a concentration should occur, which the High Authority finds has been effected contrary to the provisions of paragraph 1 but which nevertheless satisfies the conditions laid down in paragraph 2, it shall make the approval of this concentration subject to payment, by the persons who have acquired or regrouped the rights or assets in question, of the fine provided for in the second sub-paragraph of paragraph 6; provided that the amount shall not be less than half of the maximum provided for in the said sub-paragraph in any case where it is clear that authorisation should have been requested. If this payment is not made the High Authority shall apply the measures hereinafter provided for concentrations held to be illegal.

If a concentration should occur which the High Authority finds cannot satisfy the general or special conditions to which an authorisation under paragraph 2 would be subject, it shall denounce this concentration as illegal by means of a reasoned decision; after allowing the parties concerned an opportunity to put forward any arguments they wish, the High Authority shall order separation of the undertakings or assets illegally concentrated or cessation of common control as well as any other action which it considers appropriate to re-establish the independent operation of the undertakings or assets in question and to restore normal conditions of competition. Any person directly concerned may lodge an appeal against such decisions under the conditions provided for in Article 33. Notwithstanding the provisions of the said Article, the Court shall have jurisdiction to judge

whether the operation effected is a concentration within the meaning of paragraph 1 of this Article and of the Regulations issued in implementation thereof. This appeal shall be suspensive. It may not be lodged until the measures provided for above have been taken, unless the High Authority agrees to the lodging of a separate appeal against the decision holding the operation to be illegal.

The High Authority may at any time, subject to its right to give effect to the provisions of the third paragraph of Article 39, take or cause to be taken such interim measures as it may consider necessary to safeguard the interests of competing undertakings and of third parties and to prevent any action which might impede the execution of its decisions. Unless the Court decides otherwise, appeals shall not suspend such interim measures.

The High Authority shall allow the parties concerned a reasonable period in which to execute its decisions, at the expiration of which it may impose daily financial penalties equal to one-tenth of one per cent. of the value of the rights or assets in question.

Furthermore, if the parties concerned fail to fulfil their obligations, the High Authority shall itself take steps to enforce its decision and in particular may: suspend the exercise, in undertakings over which it has authority, of the rights attached to the assets illegally acquired; arrange the appointment by the judicial authorities of a receiver for these assets; organise the forced sale of such assets, under conditions which protect the legitimate interests of their owners; annul, with respect to natural or legal persons who have acquired the rights or assets in question as a result of the illegal transaction, the acts, decisions, or resolutions, of the managing bodies of undertakings under illegal control.

The High Authority is also empowered to send the Member States concerned recommendations as may be necessary to ensure the enforcement of the measures provided for in the preceding paragraphs in accordance with their domestic law.

In the exercise of its powers, the High Authority shall take account of the rights of third parties which have been acquired in good faith.

6. The High Authority may impose fines equal to:

- 3 per cent. of the value of the assets acquired or regrouped or to be acquired or regrouped on natural or legal persons who have failed to observe the obligations provided for in Section 4;
- 10 per cent. of the value of the assets acquired or regrouped, on natural or legal persons which have failed to observe the obligations provided for in paragraph 1; after the end of the twelfth month following completion of the transaction this maximum shall be increased by one-twenty-fourth for each month which has elapsed before the High Authority discovers the infringement;
- 10 per cent. on the value of the assets acquired or regrouped or to be acquired or regrouped, on natural or legal persons which have obtained or attempted to obtain the benefit of the provisions of paragraph 2 by means of false or misleading information;
- 15 per cent. of the value of the assets acquired or regrouped, on undertakings over which it has authority which have participated

in or lent themselves to the carrying-out of operations contrary to the provisions of this Article.

Persons subject to the penalties laid down in the present paragraph may appeal to the Court under the conditions provided for in Article 36.

7. If the High Authority finds that public or private undertakings, which, in law or in fact, have or acquire in the market, in respect of one of the products over which it has authority, a dominant position which protects them from effective competition in a substantial part of the common market, are using that position for purposes contrary to those of the present Treaty, it shall address to them any recommendations required to prevent that position from being used for such purposes. If such recommendations are not carried out satisfactorily within a reasonable time, the High Authority, by decisions taken in consultation with the Government concerned, and in accordance with the penalties laid down respectively, in Articles 58, 59 and 64, shall fix the prices and conditions of sale to be applied by the undertaking in question or draw up programmes of manufacture or of delivery which it must fulfil.

## CHAPTER VII—IMPAIRMENT OF THE CONDITIONS OF COMPETITION

### ARTICLE 67

1. Any action by a Member State which may have appreciable repercussions on the conditions of competition in the coal and steel industries shall be brought to the attention of the High Authority by the Government concerned.

2. If such action is liable to provoke a serious disequilibrium by substantially increasing differences in costs of production, otherwise than through variations in productivity, the High Authority, after consulting the Consultative Committee and the Council, may take the following steps:

If the action taken by the said State is causing harmful effects for coal or steel undertakings over which such State has authority, the High Authority may authorise such State to grant assistance to such undertakings, the amount, conditions and duration of which shall be determined in agreement with the High Authority. The same provisions shall apply in case of a variation in wages and in working conditions which would have the same effects, even if such variation is not the result of action by the said State.

If the action taken by the said State is causing harmful effects for coal or steel undertakings over which other Member States have authority, the High Authority may address a recommendation to the said State with a view to remedying those effects by such measures as that State may consider most compatible with its own economic equilibrium.

3. If the action taken by the said State reduces differences in costs of production by granting a special advantage to, or by imposing special burdens on, coal or steel undertakings over which it has authority by comparison with the other industries in the same country, the High Authority is empowered to make the necessary recommendations to the State in question after consulting the Consultative Committee and the Council.

## ARTICLE 68

1. The methods of fixing wages and social benefits in force in the various Member States shall not be affected, as regards the coal and steel industries, by the present Treaty, subject to the following provisions.

2. If the High Authority finds that abnormally low prices practised by one or several undertakings are the result of wages fixed by these undertakings at an abnormally low level, compared with wages in the same region, it shall address the necessary recommendations to these undertakings after consulting the Consultative Committee. If the abnormally low wages are the result of Governmental decisions, the High Authority shall enter into consultation with the Government concerned, to which, in the absence of agreement and after obtaining an opinion from the Consultative Committee, it may address a recommendation.

3. If the High Authority finds that a lowering of wages entails a fall in the standard of living of the labour force and at the same time is being used as a means of permanent economic adjustment by undertakings or as a means of competition among undertakings it shall send to the undertaking or Government concerned, after consulting the Consultative Committee, a recommendation with a view to securing, at the expense of the undertakings benefits for the workers to compensate for the fall.

This provision shall not apply to:

- (a) overall measures taken by a Member State to re-establish its external equilibrium, without prejudice in this case to the possible implementation of the provisions of Article 67;
- (b) wage decreases resulting from the application of a sliding scale established by law or by contract;
- (c) wage decreases resulting from a decrease in the cost of living;
- (d) wage decreases intended to correct abnormal increases which have previously occurred under exceptional circumstances which no longer apply.

4. Except for cases provided for in sub-paragraphs (a) and (b) of the above paragraph, any wage decrease affecting the whole labour force of an undertaking or a sizeable proportion thereof shall be notified to the High Authority.

5. The recommendations provided for in the above paragraphs may be made by the High Authority only after consulting the Council, unless they are addressed to undertakings smaller than a minimum size to be defined by the High Authority in agreement with the Council.

If, in one of the Member States, a modification of the provisions relating to the financing of social security or of the measures for dealing with unemployment and its effects, or a variation in wages, produces the effects referred to in Article 67 (2) and (3) the High Authority shall be empowered to make use of the provisions of Article 67.

6. If an undertaking should fail to comply with a recommendation made to it in pursuance of this Article, the High Authority may impose on the undertaking fines and financial penalties equal to twice the amount of the saving in labour costs illegally effected.

#### ARTICLE 69

1. Member States undertake to remove any restriction, based on nationality, on the employment in the coal and steel industries of workers who are nationals of one of the Member States and have recognised qualifications for positions in such industries; this commitment shall be subject to the limitations resulting from the fundamental needs of health and public policy (*ordre public*).

2. In order to give effect to these provisions, Member States will draw up a common definition of skilled jobs and qualifications and will decide by common agreement upon the limitations provided for in the preceding paragraph. They will also work out procedures to permit offers and demands for employment to be co-ordinated in the Community as a whole.

3. In addition, in the case of types of workers not covered by the provisions of the preceding paragraph and where an expansion of production in the coal and steel industries would be hampered by a shortage of suitable labour, they will adapt their immigration rules to the extent needed to put an end to this; in particular, they will facilitate the re-employment of workers from the coal and steel industries of other Member States.

4. They will prohibit any discrimination in remuneration and working conditions as between national and immigrant workers, without prejudice to special measures concerning frontier workers; in particular, they will work out among themselves any arrangements which may continue to be needed to prevent social security measures from impeding the movement of labour.

5. The High Authority shall guide and facilitate the implementation by Member States of the measures provided for in this Article.

6. This Article shall not affect the international obligations of Member States.

### CHAPTER IX—TRANSPORT

#### ARTICLE 70

It is recognised that the establishment of the common market requires the application of such transport rates for coal and steel as will make possible comparable price conditions for consumers in comparable circumstances.

In the case of traffic between Member States, discrimination in transport rates and conditions of any kind, based on the country of origin or of destination of the products in question shall, in particular, be forbidden. The abolition of such discrimination shall involve in particular an obligation to apply to the transport of coal and steel, coming from or going to another country of the Community, the rates, prices and tariff provisions of all kinds applicable to internal transport of the same goods over the same route.

The rates, prices, and tariff provisions of all kinds, applied to the transport of coal and steel within each member State and between Member States shall be published or brought to the knowledge of the High Authority.

The application of special domestic tariff measures in the interest of one or several coal or steel-producing undertakings shall be subject to the prior agreement of the High Authority, which shall ensure that such measures are in accordance with the principles of the present Treaty; it may make its agreement thereto temporary or conditional.

Subject to the provisions of this Article, as well as to the other provisions of the present Treaty, commercial policy for transport, in particular the fixing and modification of rates and conditions of transport of any kind as well as the adjustment of transport prices tending to ensure the financial equilibrium of transport undertakings shall remain subject to the legislative or administrative provisions of each Member State, as shall all measures for co-ordinating or dealing with competition between different types of transport or between different routes.

## CHAPTER X—COMMERCIAL POLICY

### ARTICLE 71

The competence of the governments of Member States as regards commercial policy shall not be affected by the present Treaty, except as otherwise provided therein.

The powers granted to the Community by the present Treaty with respect to commercial policy towards third countries may not exceed the powers which Member States are free to exercise under the international agreements to which they are parties, subject to the provisions of Article 75.

The Governments of Member States shall assist one another, to the extent necessary therefor to give effect to all measures recognised by the High Authority as being in accordance with the present Treaty and with existing international agreements. The High Authority is empowered to propose to the Member States concerned the methods by which this collaboration can be ensured.

### ARTICLE 72

Minimum rates, below which Member States bind themselves not to lower their customs duties on coal and steel with regard to third countries, and maximum rates, above which they bind themselves not to raise such duties, may be fixed by unanimous decision of the Council upon the proposal of the High Authority, which may act on its own initiative or at the request of a Member State.

Between the limits fixed by the said decision, each Government will set its tariffs according to its own national procedure. The High Authority may, on its own initiative or at the request of one of the Member States, issue an opinion suggesting modification of the said State's tariffs.

#### ARTICLE 73

The administration of import and export licences in regard to third countries shall be a matter for the Government on whose territory the place of origin for exports or the place of destination for imports is situated.

The High Authority shall be empowered to superintend the administration and supervision of these licences for coal and steel. After consulting the Council, it shall address recommendations to Member States when necessary either so as to prevent the measures adopted from being more restrictive than is required by the situation which leads to their introduction or maintenance or in order to ensure the co-ordination of measures taken under the third paragraph of Article 71 and under Article 74.

#### ARTICLE 74

In the cases set out below, the High Authority shall be empowered to take any measures in accordance with the present Treaty, in particular as regards the objectives defined in Article 3, and to make any recommendations to Governments which are in accordance with the provisions of the second paragraph of Article 71:

- (1) if it is found that countries not members of the Community or undertakings situated in such countries are engaging in dumping or other practices condemned by the Havana Charter;
- (2) if a difference between the quotations made by undertakings over which the Community has no authority and those made by undertaking over which it has authority is exclusively due to the fact that those of the former are based on competitive conditions which are contrary to the provisions of the present Treaty;
- (3) if one of the products set out in Article 81 of the present Treaty is imported into the territory of one or several of the Member States of the Community in relatively increased quantities and under such conditions that these imports inflict or threaten to inflict serious damage on production, within the common market, of similar or directly competitive products.

However, recommendations for the establishment of quantitative restrictions may be made, in the case cited in sub-paragraph (2) above, only after the Council has given a confirmatory opinion and in the case cited in sub-paragraph (3) above, only under the conditions set out in Article 58.

#### ARTICLE 75

Member States undertake to keep the High Authority informed of proposed commercial agreements or similar arrangements as far as they relate to coal and steel or to the importation of other raw materials and of the specialised equipment necessary for the production of coal and steel in Member States.

If a proposed agreement or arrangement contains clauses which would hinder the implementation of the present Treaty, the High Authority shall address the necessary recommendations to the State concerned within ten days of receiving notification of the agreement or arrangement; it may in any other case issue opinions.

# Title IV

## GENERAL PROVISIONS

### ARTICLE 76

The Community shall enjoy the privileges and immunities essential to its work in the territories of Member States as shall be provided for in a separate Protocol.

### ARTICLE 77

The seat of the Community's institutions shall be fixed by mutual agreement between the Governments of Member States.

### ARTICLE 78

1. The Community's financial year shall extend from 1st July to 30th June.

2. The Community's administrative expenses shall include the expenses of the High Authority, including those resulting from the operation of the Consultative Committee, of the Court and of the Secretariats of the Assembly and of the Council.

3. Each of the Community's institutions shall draw up an estimate of its administrative expenses, grouped by headings and sub-headings.

However, the number of the Community's servants and the scales of their salaries, allowances and pensions, provided that they are not fixed by another provision of the Treaty or a Regulation for its implementation, as well as any extraordinary expenditure, shall be determined in advance by a Committee consisting of the President of the Court, the President of the High Authority, the President of the Assembly and the President of the Council. The President of the Court shall preside over this Committee.

The Committee of Presidents provided for in the preceding paragraph shall collate the estimates of expenditure in a general estimate which shall include a special section for the expenditure of each institution.

The adoption of the general estimate shall have the effect of authorising and requiring the High Authority to collect the corresponding revenue in accordance with the provisions of Article 49. The High Authority shall place the funds provided for the functioning of each of the institutions at the disposal of the President of that institution, who may undertake or give instructions to undertake expenditure or its settlement.

The Committee of Presidents may authorise transfers within headings and from one heading to another.

4. The general estimate shall be included in the annual report presented by the High Authority to the Assembly under the provisions of Article 17.

5. If the operations of the High Authority or of the Court so require, the appropriate President may present to the Committee of Presidents a supplementary estimate, subject to the same rules as the general estimate.

6. The Council shall appoint an Auditor to serve for three years. His term of office may be renewed. He shall act completely independently in the performance of his duties. The duty of Auditor shall be incompatible with any other duty in any institution or service of the Community.

The Auditor shall make an annual report on the correctness of the accounts and of the financial management of the various institutions. He shall make this report within six months after the end of the financial year to which the accounts refer and shall send it to the Committee of Presidents.

The High Authority shall send this report to the Assembly at the same time as the report provided for in Article 17.

#### ARTICLE 79

The present Treaty shall apply to the European territories of the High Contracting Parties. It shall also apply to those European territories for whose foreign relations a signatory State assumes responsibility; an exchange of letters between the Government of the German Federal Republic and the Government of the French Republic concerning the Saar is annexed to the present Treaty.

Each High Contracting Party binds itself to extend to the other Member States the preferential measures which it enjoys with respect to coal and steel in the non-European territories over which it has authority.

#### ARTICLE 80

The term "undertaking" shall, for the purposes of the present Treaty, mean any undertaking engaged in production in the field of coal and steel within the territories mentioned in the first paragraph of Article 79; and in addition, as regards Articles 65 and 66, and the information required for their implementation and appeals based upon them, any undertaking or organisation regularly engaged in distribution other than sale to domestic consumers or to craft industries.

#### ARTICLE 81

The terms "coal" and "steel" are defined in Annex I to the present Treaty.

Additions may be made to the lists set forth in this Annex by unanimous decision of the Council.

#### ARTICLE 82

The turnover which shall serve as the basis for calculating the fines and financial penalties applicable to undertakings by virtue of the present Treaty shall be the turnover on the products over which the High Authority has authority.

#### ARTICLE 83

The establishment of the Community shall not in any way prejudice existing systems and incidents of ownership of the undertakings to which the present Treaty applies.

#### ARTICLE 84

For the purposes of the present Treaty, the words "the present Treaty" shall include the Treaty's clauses, its Annexes, the Protocols annexed thereto and the Convention containing the Transitional Provisions.

#### ARTICLE 85

The initial and transitional measures agreed upon by the High Contracting Parties with a view to making it possible for the present provisions of the present Treaty to be implemented are set forth in a separate Convention annexed to this Treaty.

#### ARTICLE 86

Member States undertake that they will take all steps, both general or particular, needed to discharge their obligations resulting from decisions and recommendations by the Community's institutions and that they will help the Community to carry out its duties.

Member States undertake to refrain from any measure incompatible with the existence of the common market referred to in Articles 1 and 4.

Member States shall take all steps open to them to ensure the settlement of international accounts arising out of trade in coal and steel within the common market and shall co-operate one with another to facilitate such settlements.

Officials of the High Authority charged by it with supervisory tasks shall enjoy on the territories of Member States, as far as is necessary for the accomplishment of their tasks, such rights and powers as are granted by the laws of such States to officials of their own tax services. The tasks and status of such officials shall be duly notified to the State concerned. Officials of this State may, at its request or at that of the High Authority, assist the officials of the High Authority in carrying out their task.

#### ARTICLE 87

The High Contracting Parties agree not to avail themselves of any treaties, conventions or declarations existing among themselves so as to submit any dispute arising out of the interpretation or implementation of the present Treaty to a method of settlement other than those provided for therein.

#### ARTICLE 88

If the High Authority considers that a State has failed to fulfil any of its obligations under the present Treaty, it shall, after allowing the State in question an opportunity to present its views, take note of the failure in a reasoned decision. It shall allow the State in question a period of time within which to arrange to fulfil its obligation.

Such a State may appeal to the full jurisdiction (*pleine juridiction*) of the Court within two months of the decision being notified.

If the State has not taken steps to fulfil its obligation within the period fixed by the High Authority or, in the case of an appeal, if its appeal has been rejected the High Authority may, if it receives a confirmatory opinion from the Council and acting by a two-thirds majority:

- (a) suspend the payment of sums which the High Authority may owe to the State in question under the present Treaty;

(b) adopt measures or authorise other Member States to adopt measures which would otherwise be contrary to the provisions of Article 4, so as to correct the effects of the failure in question.

An appeal to the Court's full jurisdiction (*pleine juridiction*) may be lodged against the decisions taken under paragraphs (a) and (b) within two months of their notification.

If these measures should prove ineffective, the High Authority shall refer the matter to the Council.

#### ARTICLE 89

Any dispute between Member States as to the implementation of the present Treaty, which cannot be settled by another procedure provided for in the present Treaty, may be submitted to the Court at the request of one of the States which are parties to the dispute.

The Court shall have jurisdiction to settle any dispute between Member States related to the purpose of the present Treaty if such a dispute is submitted to it by virtue of an arbitration clause.

#### ARTICLE 90

If an infringement by an undertaking of an obligation under the present Treaty also constitutes an infringement of an obligation under the legislation of the State to which the undertaking is subject, and if legal or administrative action is taken against the undertaking in question under such legislation, the State in question shall so inform the High Authority, which may suspend its own action.

If the High Authority suspends action, it shall be kept informed of the progress of the proceedings and permitted to produce any relevant documents, expert testimony and evidence. It shall also be informed of the final decision on the case and shall take account of this decision in determining any sanctions which it may be led to impose.

#### ARTICLE 91

If an undertaking does not make within the prescribed time-limit a payment owed by it to the High Authority by virtue either of a provision of the present Treaty or an implementing Regulation or by virtue of a pecuniary sanction or financial penalty imposed by the High Authority, the latter shall be free to suspend settlement of sums which it may owe to the said undertaking up to the amount of the payment in question.

#### ARTICLE 92

Decisions of the High Authority which include a pecuniary obligation on undertakings shall have the enforceability of a Court judgment (*titre exécutoire*).

Enforcement on the territory of Member States shall be carried out by means of the legal procedure in effect in each State, after the order for enforcement (*formule exécutoire*) in the form in use in the State on whose territory the decision is to be carried out has been stamped on the decision; this shall be done without more verification than that the decision is authentic. These formalities shall be carried out under the responsibility of a Minister designated for this purpose by each of the Governments.

Enforcement may be stayed only by a decision of the Court.

### ARTICLE 93

The High Authority shall maintain whatever relations appear useful with the United Nations and the Organization for European Economic Co-operation, and shall keep these organizations regularly informed as to the Community's activities.

### ARTICLE 94

Relations shall be maintained between the Community's institutions and the Council of Europe under the terms of an annexed Protocol.

### ARTICLE 95

In all cases not provided for in the present Treaty in which a decision or recommendation by the High Authority appears necessary to achieve, in the operation of the common market for coal and steel and in accordance with the provisions of Article 5, one of the Community's objectives as defined in Articles 2, 3 and 4, such a decision or recommendation may be taken upon receiving a unanimous confirmatory opinion from the Council and after consulting the Consultative Committee.

The same rule shall apply to any decision or recommendation, as to any sanctions which it may be necessary to employ.

If, after the transitional period, provided for in the Convention containing Transitional Provisions, has ended unforeseen difficulties, which the operation of the present Treaty has revealed, or a profound change in the economic or technical conditions directly affecting the common market for coal and steel, make it necessary to adapt the rules for the exercise by the High Authority of the powers conferred upon it appropriate amendments may be made provided that they do not infringe the provisions of Articles 2, 3 and 4, or the relationship between the powers of the High Authority and those of the other institutions of the Community.

These amendments shall be jointly proposed by the High Authority and the Council, acting by a five-sixths majority of its members, and shall be submitted to the Court for its opinion. When considering the matter, the Court shall be fully competent to review all matters of fact and of law. If the Court should find that the proposals conform to the provisions of the preceding paragraph they shall be forwarded to the Assembly and shall come into force if they are approved by the Assembly acting by a majority of three-quarters of the votes cast and two-thirds of the total membership.

### ARTICLE 96

After the transitional period has ended the Government of any Member State and the High Authority may propose amendments to the present Treaty. Such proposals shall be submitted to the Council. If the Council, by a two-thirds majority, gives an opinion in favour of a conference of representatives of the Governments of the Member States such conference shall be immediately convened by the President of the Council, with a view to agreeing on any amendments to be made to the provisions of the Treaty.

Such amendments shall come into force after being ratified by all Member States in accordance with their respective constitutional requirements.

#### ARTICLE 97

The present Treaty is concluded for a period of fifty years from the date when it comes into force.

#### ARTICLE 98

Any European State may request to accede to the present Treaty. It shall address its request to the Council which, after obtaining the opinion of the High Authority, shall reach a unanimous decision. The Council shall also unanimously determine its terms of accession, which shall become effective on the day when the instrument of accession is received by the Government acting as depositary of the Treaty.

#### ARTICLE 99

The present Treaty shall be ratified by all Member States according to their respective constitutional rules; the instruments of ratification shall be deposited with the Government of the French Republic.

The Treaty shall come into force on the date when the last signatory State deposits its instrument of ratification.

If all the instruments of ratification have not been deposited within six months from the signing of the present Treaty, the Governments of the States which have deposited their instruments shall consult among themselves on the measures to be taken.

#### ARTICLE 100

The present Treaty, drawn up in one single copy shall be deposited in the archives of the Government of the French Republic, which shall transmit a certified copy thereof to each of the governments of the other signatory States.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have placed their signatures below the present Treaty and affixed their seals thereto.

Done at Paris, on the eighteenth day of April, one thousand nine hundred and fifty-one.

ADENAUER.

PAUL VAN ZEELAND.

J. MEURICE.

SCHUMAN.

SPORZA.

JOS. BECH.

STIKKER.

VAN DEN BRINK.

## ANNEX I

## DEFINITION OF THE TERMS COAL AND STEEL

1. The expressions "coal" and "steel" shall cover the products which appear in the list below.
2. The actions of the High Authority with regard to special steel products, coke and scrap, shall take account of conditions of production or trade peculiar to them.
3. With regard to gas coke and lignite, used otherwise than for the manufacture of patent fuel and low temperature coke, the High Authority shall only take such action as may be made necessary by any appreciable disturbances which these products may cause in the market for fuels.
4. The High Authority shall, in all its actions, take account of the fact that the production of certain of the products in this list is directly linked with the production of by-products which do not appear therein, but whose selling price may influence that of the basic products.

O.E.E.C. code number	Name of products
3,000	SOLID FUEL
3,100	<i>Hard coal.</i>
3,200	<i>Patent fuels made from hard coal.</i>
3,300	<i>Coke, except coke for electrodes and petroleum coke.</i> Low temperature coke ("semi-coke") of hard coal.
3,400	<i>Brown coal briquettes.</i>
3,500	<i>Lignite.</i> Low temperature coke ("semi-coke") of lignite.
4,000	IRON AND STEEL INDUSTRY
4,100	<i>Raw materials for cast-iron and steel production<sup>(1)</sup>.</i> Iron ore (except pyrites). Scrap. Manganese ore.
4,200	<i>Pig-iron, cast-iron and ferro-alloys.</i> Pig-iron for steel making. Foundry and other cast-iron. Spiegeleisen and high-carbon ferro-manganese <sup>(2)</sup> .

(<sup>1</sup>) See Notes on following pages.

(<sup>2</sup>) do.

Q.E.E.C. code number	Name of products
4,300	<p><i>Crude and semi-finished products of iron, ordinary steel or special steel, including re-usable and re-rolled products.</i></p> <p>Liquid steel cast or not cast into ingots, including products for re-use or re-rolling<sup>(2)</sup>.</p> <p>Semi-finished products; blooms, billets, slabs, sheet-bars, tinplate bars, wide hot-rolled coils (other than coils which are considered as finished products).</p>
4,400	<p><i>Hot finished products of iron, ordinary steel or special steel<sup>(4)</sup>.</i></p> <p>Rails, sleepers, fish-plates and sole-plates, girders, heavy sections and bars of 80 mm. or more, and sheet piling.</p> <p>Bars and sections of less than 80 mm. and flats of less than 150 mm.</p> <p>Wire rod.</p> <p>Tube rounds and squares.</p> <p>Hoop and hot-rolled strip (including tube strip).</p> <p>Hot-rolled sheets under 3 mm. (whether coated or uncoated).</p> <p>Plates and sheets of 3 mm. or over, universal plates of 150 mm. or over.</p>
4,500	<p><i>End-products of iron, ordinary steel or special steel<sup>(5)</sup>.</i></p> <p>Tinplate, terne-plate, black-plate, galvanized sheets, other coated sheets.</p> <p>Cold rolled sheets under 3 mm.</p> <p>Electrical sheets.</p> <p>Strip for tinplate.</p>

#### Notes

(<sup>1</sup>) Raw materials of code number 4190 of the O.E.E.C. nomenclature (other raw materials for the production of pig-iron or steel not elsewhere specified) are not included. In particular, refractories are not included.

(<sup>2</sup>) Other ferro-alloys are not included.

(<sup>3</sup>) With regard to the production of liquid steel for castings, the High Authority shall use its powers only where such production is considered as part of the activity of the steel industry proper.

The production of any other liquid steel for casting (such as that in small and medium-sized independent foundries) shall be subject only to statistical control without this leading to any discriminatory measures against them.

(<sup>4</sup>) Steel castings, forgings and products obtained from powder are not included.

(<sup>5</sup>) Steel tubes (seamless or welded), cold rolled strip less than 500 mm. in width (other than that used for making tinplate), wire, bright bars and iron castings (tubes, pipes and tube and pipe fittings, and other iron castings) are not included.

## ANNEX II

### SCRAP

The provisions of the present Treaty shall apply to iron and steel scrap, but account shall be taken of the following practical measures which are made necessary by the special conditions of collecting and trading in scrap:

- (a) The prices fixed by the High Authority under the provisions of Chapter V of Title III shall apply to purchases by the Community's undertakings; Member States shall co-operate with the High Authority to see that sellers respect the decisions taken.
- (b) Article 59 shall not apply to the following:
  - cast iron scrap limited by its nature to use in foundries over which the Community has no authority;
  - circulating scrap used directly by the undertakings themselves; however, the resources formed by such scrap shall be taken into account in calculating the bases for allocations of recovered scrap.
- (c) In order to apply the provisions of Article 59 to recovered scrap, the High Authority, in co-operation with the Governments of Member States, shall collect the necessary information on availabilities and requirements, including exports to third countries.

On the basis of the information thus collected, the High Authority shall allocate available supplies among Member States in accordance with the provisions of Article 59 and taking into account the most economical possibilities of using these resources as well as all the conditions of operation and supply appropriate to the different sections of the steel industry over which it has authority.

In order to ensure that the deliveries provided for under such an allocation from one Member State to another or the exercise of purchasing rights granted to one Member State in the market of another Member State do not lead to discrimination detrimental to the undertakings of either of the said Member States, the following measures shall be taken:

1. Each Member State shall authorise the export from its territory to other Member States of deliveries corresponding to the allocation made by the High Authority; in return, each Member State shall be authorised to carry out the necessary inspection so as to ensure that the deliveries are not greater than the quantities thus provided for. The High Authority shall be empowered to see that the arrangements made are not more restrictive than is necessary for this purpose.
2. The allocation among Member States shall be reviewed at intervals as frequently as is necessary to maintain a relationship between the recognised resources of each Member State and the deliveries it is required to make to other Member States which is fair both to local buyers and to those from other Member States.
3. The High Authority shall see that the regulations adopted by each Member State for the sellers over which it has authority do not have the effect of applying unequal conditions to comparable transactions, in particular as regards the nationality of buyers.

## ANNEX III

### SPECIAL STEELS

Special steels and high carbon steels, as described in the draft European customs nomenclature drawn up in Brussels by the Tariff Committee during its meeting of 15th July, 1950, shall be treated as follows, according as they fall within one or other of the three following groups:

- (a) special steels commonly called constructional steels and defined as containing less than 0.6 per cent. of carbon and not more than 8 per cent. of two or more alloying elements taken together or 5 per cent. of one alloying element alone<sup>(1)</sup>;
- (b) high carbon steels with a carbon content of between 0.6 and 1.6 per cent.: special alloy steels, other than those defined in paragraph (a) above, containing less than 40 per cent. of two or more alloying elements taken together or 20 per cent. of one alloying element alone<sup>(1)</sup>;
- (c) special steels not covered by the definitions in paragraphs (a) and (b) above.

The products belonging to groups (a) and (b) shall be subject to the authority of the High Authority. However, in order to allow the study of the appropriate methods of applying the Treaty to these products, taking into account the conditions of production and trade peculiar to them, the date at which import and export duties or equivalent charges and all quantitative restrictions on their movement within the Community are to be abolished will be postponed until one year after the date fixed for the establishment of the common market for steel.

For products belonging to group (c), the High Authority shall, immediately upon assuming its functions, undertake studies in order to find appropriate methods for applying the Treaty to these various products, taking into account the conditions of production and trade peculiar to them; as each of these studies is completed, and within three years at the latest from the date of the introduction of the common market, the arrangements to be made for each of the products in question shall be submitted by the High Authority to the Council, which shall pronounce on them in accordance with the provisions of Article 81. During this period the products belonging to category (c) shall be subject to the High Authority only for the purpose of obtaining statistics.

K. A.  
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S.  
V. D. B.

<sup>(1)</sup> Sulphur, phosphorus, silicon and manganese in amounts normally accepted in ordinary steel are not counted as alloying elements.

## PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE COMMUNITY

WHEREAS Article 76 of the Treaty provides that the Community shall enjoy in the territories of Member States the immunities and privileges necessary for the fulfilment of its tasks under the conditions provided for in an annexed Protocol:

THE HIGH CONTRACTING PARTIES HAVE AGREED as follows:

### CHAPTER I—PROPERTY, FUNDS AND ASSETS

#### ARTICLE 1

The premises and buildings of the Community shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation. The property and assets of the Community may not be the subject of any administrative or legal measure of constraint without the authorisation of the Court.

#### ARTICLE 2

The archives of the Community shall be inviolable.

#### ARTICLE 3

The Community may hold any kind of currency and have accounts in any kind of money.

#### ARTICLE 4

The Community, its assets, income and other properties shall be exempt from:

- (a) all direct taxes; however, the Community shall not request exemption from such taxes, charges and duties as amount only to payment for public utility services;
- (b) all customs duties, prohibitions and restrictions on imports and exports with respect to articles intended for its official use; articles thus imported free of duty shall not be sold in the territory of the country into which they shall have been imported except under conditions approved by the Government of that country;
- (c) all customs duties and all prohibitions and restrictions on imports and exports with respect to its publications.

### CHAPTER II—COMMUNICATIONS AND PASSES

#### ARTICLE 5

For their official communications, the institutions of the Community shall enjoy in the territory of each Member State the treatment granted by that State to diplomatic missions.

Official correspondence and other official communications of the institutions of the Community shall not be subject to censorship.

## ARTICLE 6

The President of the High Authority shall issue passes to members of the High Authority and to the higher officials\* of the Community's institutions. These passes shall be recognised as valid for travel purposes by the authorities of Member States.

## CHAPTER III—MEMBERS OF THE ASSEMBLY

### ARTICLE 7

No restrictions of an administrative or other nature shall be imposed on the free movement of members of the Assembly proceeding to or coming from the place of meeting of the Assembly.

In respect of customs and exchange control, members of the Assembly shall be granted:

- (a) by their own Governments, the same facilities as those granted to senior officials proceeding abroad on temporary official duty;
- (b) by the Governments of other Member States, the same facilities as those granted to representatives of foreign governments on temporary official duty.

### ARTICLE 8

Members of the Assembly shall not be the subject of any form of enquiry, detention or prosecution in respect of opinions expressed or votes cast by them in the course of their duties.

### ARTICLE 9

During the sessions of the Assembly, its members shall enjoy:

- (a) in their national territory, the immunities granted to members of the Parliament of their country;
- (b) in the territory of any other Member State, exemption from all measures of detention and from suit and legal process.

They shall likewise be covered by such immunity when proceeding to or returning from the place of meeting of the Assembly.

Such immunity may not be invoked if found in the act of committing a serious offence (*flagrant délit*), nor may it hinder the right of the Assembly to waive the immunity of any of its members.

\* The French text gives "fonctionnaires", the Italian text has "Agenti" and the German "Beamten." But in the same Article of the Protocols annexed to the E.E.C. and E.C.S.C. Treaties, the word used is respectively "agents," "agent" and "bediensteten". In the "Statut des Fonctionnaires", applicable to all three Communities, the definition of "fonctionnaire" does not include temporary staff, special advisers etc., who are classed as "agents". However in the present context the word seems to have been used in a wider sense. See also Article 11.

## CHAPTER IV—REPRESENTATIVES IN THE COUNCIL

### ARTICLE 10

Representatives in the Council and persons officially accompanying them shall, in the course of their duties and during their travel to and from the place of meeting, enjoy the customary privileges and immunities.

## CHAPTER V—MEMBERS OF THE HIGH AUTHORITY AND OFFICIALS\* OF THE INSTITUTIONS OF THE COMMUNITY

### ARTICLE 11

In the territory of each Member State, and regardless of their nationality, the members of the High Authority and officials of the Community:

- (a) shall, subject to the provisions of the second paragraph of Article 40 of the Treaty, be immune from suit and legal process in respect of acts performed by them in their official capacity, including their spoken or written words; they shall continue to benefit from such immunity after their duties have ceased;
- (b) shall be exempt from any tax on salaries and emoluments paid by the Community;
- (c) shall, together with their spouses and the dependent members of their families, not be subject to immigration restrictions nor to formalities for the registration of foreigners;
- (d) shall enjoy the right to import their furniture and effects free of duty at the time of first taking up their duties in the country in question, and to re-export them free of duty to the country where they have their permanent residence (*domicile*) when their duties cease.

### ARTICLE 12

The President of the High Authority shall determine the classes of officials to which the provisions of the present Chapter shall apply in whole or in part. He shall submit the list thereof to the Council and then communicate it to the Governments of all Member States. The names of officials included in such classes shall be communicated periodically to the Governments of Member States.

### ARTICLE 13

Privileges, immunities and facilities are granted to members of the High Authority and to officials of the Community's institutions solely in the interest of the Community.

The President of the High Authority shall be required to waive the immunity granted to an official in any case where he deems that the waiver of such immunity is not contrary to the interests of the Community.

## CHAPTER VI—GENERAL PROVISIONS

### ARTICLE 14

The High Authority may conclude, with one or several Member States, further agreements modifying the provisions of the present Protocol.

\* See Note to Article 6.

#### ARTICLE 15

The privileges, immunities and facilities granted to the judges, Registrar and staff of the Court shall be governed by its Statute.

#### ARTICLE 16

Any dispute concerning the interpretation or implementation of the present Protocol shall be submitted to the Court.

Done at Paris, on the eighteenth day of April, one thousand nine hundred and fifty-one.

ADENAUER.  
PAUL VAN ZEELAND.  
J. MEURICE.  
SCHUMAN.  
SPORZA.  
JOS. BECH.  
STIKKER.  
VAN DEN BRINK.

# PROTOCOL ON THE STATUTE OF THE COURT OF JUSTICE

## THE HIGH CONTRACTING PARTIES:

BEING DESIROUS of establishing the Statute of the Court of Justice provided for by Article 45 of the Treaty.

HAVE AGREED as follows: (1)

### ARTICLE 1

The Court of Justice established by Article 7 of the Treaty shall be constituted and shall perform its duties in accordance with the provisions of the Treaty and of the present Statute.

## TITLE I—STATUS OF THE JUDGES

### OATH OF OFFICE

### ARTICLE 2

Before entering upon his duties, each judge shall in open court take an oath to discharge his duties conscientiously and with complete impartiality and to preserve the secrecy of the Court's consideration of cases (*délibérations*).

### PRIVILEGES AND IMMUNITIES

### ARTICLE 3

Judges, in their official capacity, shall have immunity from suit and legal process. They shall continue to benefit from such immunity after their duties have ceased, in respect of acts done by them, including words spoken and written.

The Court sitting in plenary session may suspend this immunity.

Only a Court competent to judge the members (*magistrats*) of the highest national judiciary in each Member State shall have jurisdiction in criminal proceedings against judges whose immunity has been suspended.

Judges, whatever their nationality, shall also enjoy in the territory of each of the Member States the privileges set out in paragraphs (b), (c) and (d) of Article 11 of the Protocol on the Privileges and Immunities of the Community.

### INCOMPATIBILITY

### ARTICLE 4

Judges may not hold any political or administrative office.

They may not engage in any paid or unpaid, occupation or profession except by exceptional exemption granted by a two-thirds majority of the Council.

(1) The Convention of March 25, 1957, relating to certain institutions common to the European Communities, lays down in Article 4 (b): "... The provisions of the Protocol on the Statute of the Court of Justice annexed to the Treaty establishing the European Coal and Steel Community are abrogated in so far as they are contrary to Articles 32 to 32 (c) inclusive of that Treaty."

They may not acquire or hold, directly or indirectly, any interest in any business related to coal or steel during their term of office and during a period of three years thereafter.

#### REMUNERATION

##### ARTICLE 5

The salaries, allowances and pensions of the President and the judges shall be fixed by the Council on the proposal of the Committee provided for in Article 78 (3) of the Treaty.

#### TERMINATION OF OFFICE

##### ARTICLE 6

Apart from retirements in regular rotation, the duties of a judge shall be individually terminated by death or resignation.

When a judge resigns, his letter of resignation shall be addressed to the President of the Court for transmission to the President of the Council. The latter notification shall produce a vacancy on the bench.

Save where Article 7 below applies, each judge shall continue to hold office until his successor enters upon his duties.

##### ARTICLE 7

Judges may be removed from office only if, in the unanimous opinion of the other judges they no longer fulfil the required conditions.

The President of the Council, the President of the High Authority and the President of the Assembly shall be notified of this by the Registrar.

Such notification shall produce a vacancy on the bench.

#### ARTICLE 8

A judge who is appointed to replace a member of the Court whose term of office has not expired, shall be appointed for the remainder of his predecessor's term of office.

### TITLE II—ORGANISATION

##### ARTICLE 9

The judges, the advocates-general (*avocats-généraux*) and the Registrar must reside at the place where the Court has its seat.

##### ARTICLE 10

The Court shall be assisted by two advocates-general and one Registrar.

#### ADVOCATES-GENERAL (AVOCATS GÉNÉRAUX)

##### ARTICLE 11

It shall be the duty of the advocate-general to make reasoned submissions (*conclusions*) in open court on matters referred to the Court. He shall do so with complete impartiality and independence in order to assist the Court in the performance of its duties, as defined in Article 31 of the Treaty.

## ARTICLE 12

The advocates-general shall be appointed for a term of six years in the same manner as the judges. There shall be a partial change in membership every three years. The advocate-general whose term expires at the end of the first period of three years shall be designated by lot. The provisions of the third and fourth paragraphs of Article 32 of the Treaty and the provisions of Article 6 of the present Statute shall apply to the advocates-general.

## ARTICLE 13

The provisions of Articles 2 to 5 and 8 above shall apply to the advocates-general.

Advocates-general may be removed from office only if they no longer fulfil the conditions required for holding such office. Any decision to remove them must be unanimously reached by the Council, upon the advice of the Court.

## REGISTRAR

### ARTICLE 14

The Registrar shall be appointed by the Court, which shall lay down his terms of office, subject to the provisions of Article 15 below. He shall take an oath before the Court to discharge his duties conscientiously and with complete impartiality and to preserve the secrecy of the Court's consideration of the cases before it.

The provisions of Articles 11 and 13 of the Protocol on the Privileges and Immunities of the Community shall be applicable to the Registrar; however, the powers conferred by those Articles on the President of the High Authority shall be exercised by the President of the Court.

### ARTICLE 15

The Registrar's salary, allowances and pension shall be fixed by the Council on the proposal of the Committee provided for in Article 78 (3) of the Treaty.

## THE COURT'S STAFF

### ARTICLE 16

Officials or employees shall be attached to the Court to enable it to carry out its tasks. They shall be responsible to the Registrar under the authority of the President. Their terms of office (or status) shall be fixed by the Court. One of them shall be appointed by the Court to replace the Registrar if he is unable to carry out his duties.

Assistant Rapporteurs, having the necessary qualifications, may be called upon in case of need and under conditions to be laid down in the rules of procedure provided for in Article 44 below, to take part in the examination of cases pending before the Court and to collaborate with the judge acting as Rapporteur (*juge rapporteur*). Their terms of office shall be laid down by the Council on the proposal of the Court.

The provisions of Article 11, 12 and 13 of the Protocol on the Privileges and Immunities of the Community are applicable to the officials and employees of the Court, and to the assistant Rapporteurs ; however, the powers conferred by these Articles on the President of the High Authority shall be exercised by the President of the Court.

#### FUNCTIONING OF THE COURT

##### ARTICLE 17

The Court shall sit permanently. The length of Court vacations shall be fixed by the Court, with due regard for the exigencies of its business.

#### COMPOSITION OF THE COURT

##### ARTICLE 18

The Court shall sit in plenary session. It may, however, set up within itself two Sections each consisting of three judges, in order either to conduct certain methods of investigation (*mesures d'instruction*) or to decide certain kinds of cases, under conditions to be determined by rules which the Court shall lay down to that effect.

The Court shall be competent to sit only when sitting with an uneven number of members. The decisions of the Court meeting in plenary session shall be valid if five judges are present. The decisions of the Sections shall be valid only if they are conducted by three judges ; if one of the judges of a Section is unable to carry out his duties, a judge of the other Section may be asked to sit in accordance with conditions which shall be laid down in the rules provided for above.

Appeals by States or by the Council must in all cases be heard in plenary session (*séance plénière*).

#### SPECIAL RULES

##### ARTICLE 19

Judges and advocates-general may not participate in the hearing of any case in which they have previously participated as agent of, legal adviser to, or counsel for one of the parties, or on which they have been called upon to decide as a member of a court of law (*tribunal*), of a commission of inquiry or in any other capacity.

If, for some special reason, any judge or advocate-general considers that he should not take part in the judgement or hearing of a particular case he shall so inform the President. If the President considers that any judge or advocate-general should not, for some special reason, sit or make submissions in a particular case he shall give notice thereof to the person concerned.

The Court shall decide in case of any difficulties arising as to the interpretation of this Article.

A party may not invoke either the nationality of a judge or the absence from the bench, or from one Section, of a judge of his own nationality in order to ask for a change in the composition of the Court or of one of its Sections.

### TITLE III—PROCEDURE

#### REPRESENTATION AND PRESENCE OF INTERESTED PARTIES

##### ARTICLE 20

The States and the institutions of the Community shall be represented before the Court by an agent appointed for each case; the agent may be assisted by a counsel who is a practising member of the Bar (*avocat inscrit à un barreau*) of one of the Member States.

Undertakings and all other natural or legal persons must be represented by counsel who is a practising member of the Bar (*avocat inscrit à un barreau*) of one of the Member States.

The agents and counsel appearing before the Court shall have the rights and guarantees necessary for the independent performance of their duties under conditions to be laid down in rules made by the Court and submitted for the approval of the Council.

The Court shall have, as regards counsel who appear before it, the powers normally accorded to Courts of law, under conditions which shall be laid down by the same rules.

Senior teachers (*professeurs*) being nationals of Member States whose domestic law gives them the right of audience before their own Courts shall have the same rights before the Court as are afforded by this Article to counsel.

#### STAGES OF PROCEDURE

##### ARTICLE 21

The procedure before the Court shall be in two stages: one written and the other oral.

The written procedure shall include communication to the parties, as well as to the institutions of the Community whose decisions are in dispute, of the formal requests, statements of case, defences, comments and replies (*requêtes, mémoires, défenses, observations, répliques*), if any, as well as of all supporting documentary evidence and papers or certified copies thereof.

Such communications shall be made by the Registrar in the sequence and within the time-limits fixed by the rules of procedure.

The oral procedure shall include the reading of the report presented by a judge acting as Rapporteur and the hearing of the Court of witnesses, experts, agents and counsel and of the submissions of the advocate-general.

#### FORMAL REQUESTS

##### ARTICLE 22

Proceedings shall be instituted before the Court by a formal Request addressed to the Registrar. The Request must contain the name and the residence of the plaintiff and the description of the signatory, the subject matter of the dispute, the arguments and a short summary of the grounds on which the formal Request is based.

The formal Request must be accompanied, where appropriate, by the act (*acte*) the annulment of which is sought or, in the case of an appeal against an implicit decision, by documentary evidence of the date of filing of the Request. If these documents are not attached to the Request, the Registrar shall ask the party concerned to produce them within a reasonable period ; in that case the rights of the party shall not lapse even if such documents are produced after the expiry of the time-limit set for the institution of proceedings.

#### TRANSMISSION OF DOCUMENTS

##### ARTICLE 23

When an appeal is lodged against a decision by one of the Community's institutions it shall transmit to the Court all documents relating to the case before the Court.

#### METHODS OF INVESTIGATION (MESURES D'INSTRUCTION)

##### ARTICLE 24

The Court may require the parties, and their representatives or agents, as well as the Governments of Member States, to produce all documents and to supply all information which the Court considers desirable. In case of refusal, the Court shall take judicial notice thereof.

##### ARTICLE 25

The Court may at any time charge any person, body, office, commission or organ of its own choice with the duty of making a formal enquiry or expert appraisal ; for this purpose the Court may draw up a list of persons or organisations qualified to serve as experts.

#### PUBLICITY OF THE HEARINGS

##### ARTICLE 26

The hearings shall be public, unless the Court, for substantial reasons, shall decide otherwise.

#### RECORDS OF THE HEARINGS

##### ARTICLE 27

Records shall be kept of each hearing, signed by the President and the Registrar.

#### HEARINGS

##### ARTICLE 28

The cause list shall be settled by the President.

Witnesses may be heard under conditions which shall be determined by the rules of procedure. They may be heard on oath.

During the hearings the Court may also examine the experts and persons charged with a formal enquiry, as well as the parties themselves ; the latter, however, may only address the Court through their representative or counsel.

When it is established that a witness or an expert has concealed or falsified the facts on which he has testified or been examined by the Court the Court shall be empowered to refer such offence to the Minister of Justice of the State of which the witness or expert is a national for the enforcement of the sanctions provided for in each case by its national law.

The Court shall have as regards defaulting witnesses the powers generally accorded in such cases to Courts of law, under the conditions determined by rules laid down by the Court and submitted for the Council's approval.

#### SECRECY OF THE COURTS CONSIDERATION OF CASES (DÉLIBÉRATIONS)

##### ARTICLE 29

The Court's consideration of cases shall be and shall remain secret.

#### JUDGEMENTS

##### ARTICLE 30

Judgements shall be reasoned. They shall state the names of the judges who took part.

##### ARTICLE 31

Judgements shall be signed by the President, the judge acting as Rapporteur and the Registrar. They shall be read in open court.

#### COSTS

##### ARTICLE 32

The Court shall adjudicate upon costs.

#### SUMMARY PROCEDURE IN CASES OF URGENCY

##### ARTICLE 33

The President of the Court shall have power to decide certain matters by means of a summary procedure, which shall depart, to the extent necessary, from some of the rules contained in this Statute. This summary procedure, the details of which shall be determined by the rules of procedure, shall apply to applications for suspension of operation, as provided for in Article 39, second paragraph, of this Treaty, or to the prescribing of interim measures pursuant to the third paragraph of the same Article or the suspension of enforcement in accordance with Article 92, third paragraph.

If the President is prevented from carrying out his duties, his place shall be taken by another judge under conditions laid down in the rules provided for in Article 18 of the present Statute.

The ruling of the President or his alternate shall be provisional and shall in no way prejudge the decision of the Court on the substance of the case.

## INTERVENTION

### ARTICLE 34

Natural or legal persons who show that they have a valid interest in the result of a case before the Court may intervene in that case.

Submissions contained in the application to intervene may have as their object only the support or rejection of the written case of a party to the dispute.

## JUDGEMENT BY DEFAULT

### ARTICLE 35

When in a case where the Court has full jurisdiction over the subject matter of the proceedings and the defending party, having been duly notified, fails to file a written submission in defence, judgement shall be given on his case by default. A retrial may be claimed within one month from the date of notification. Unless the Court decides otherwise, enforcement of the judgement by default shall not be suspended by a demand for retrial (*opposition*).

## REQUESTS FOR RETRIAL (TIERCE OPPOSITION) BY THIRD PARTIES

### ARTICLE 36

Natural or legal persons (*personnes morales*) and any of the Community's institutions may intervene as third-parties to request retrial in the case of judgements given without notification to them, in such cases and under such conditions as shall be fixed by the rules of procedure.

## INTERPRETATION

### ARTICLE 37

In case of difficulty as to the meaning or scope of a judgement, it shall be for the Court to interpret such judgement upon the request of any party or any of the Community's institutions showing it has a valid interest therein.

## REVIEW (RÉVISION)

### ARTICLE 38

Application to review a judgement shall only be made to the Court if a fact becomes known which is likely to prove decisive and which was unknown both to the Court and to the applicant before judgement was delivered.

The procedure for such reconsideration shall begin by the Court delivering a judgement finding that a new fact exists, that this fact comes within the definition contained in the preceding paragraph and that the grounds for the said reconsideration have therefore been made out.

No application for such reconsideration shall be entertained if it is made more than ten years after judgement was delivered.

## TIME LIMITS

### ARTICLE 39

The appeals provided for in Articles 36 and 37 of the Treaty must be party concerned proves the existence of an unforeseeable circumstance. Article 33 of the Treaty.

Periods of grace on grounds of distance shall be determined by the rules of procedure.

There shall be no lapse of rights through the expiry of time limits if the party concerned proves the existence of an unforeseeable circumstance or *force majeure*.

## PRESCRIPTION

### ARTICLE 40

No proceedings in respect of the matters covered by Article 40 of the Treaty shall be brought more than five years after the circumstances giving rise to them occurred. Time shall not run as from the date when proceedings were instituted or when the injured party sent a preliminary demand to the Community's appropriate institution. In the latter event proceedings must have been instituted within the period of two months provided for in the last paragraph of Article 33; the provisions of the last paragraph of Article 35 shall apply where appropriate.

## SPECIAL RULES RELATING TO DISPUTES BETWEEN MEMBER STATES

### ARTICLE 41

When a dispute between Member States is submitted to the Court, under Article 89 of the Treaty, the other Member States shall be notified forthwith by the Registrar of the subject matter of such dispute.

Each of the States shall have the right to intervene in the proceedings.

The disputes referred to in this Article must be judged by the Court in plenary session.

### ARTICLE 42

If a State intervenes in a case submitted to the Court under the conditions provided for in the preceding Article, the findings contained in the judgement shall be binding on that State.

## PROCEEDINGS BY THIRD PARTIES

### ARTICLE 43

The decisions of the High Authority under Article 63, (2) of the Treaty must be notified to the buyer as well as to the undertakings concerned; if the decision refers to all undertakings or to an important class of them publication may be substituted for such individual notification.

Proceedings may be instituted under the conditions laid down in Article 36 of the Treaty by any person on whom a financial penalty has been imposed in accordance with Article 66 (5), fourth sub-paragraph.

## RULES OF PROCEDURE

### ARTICLE 44

The Court shall establish its own rules of procedure. These rules shall contain all the provisions necessary for giving effect to, and where necessary completing, the present Statute.

## TRANSITIONAL PROVISION

### ARTICLE 45

Immediately after the oath has been taken the President of the Council shall proceed to choose by lot the judges and the advocates-general whose term of office is to expire at the end of the first period of three years in accordance with Article 32 of the Treaty.

Done in Paris, on the eighteenth day of April, one thousand nine hundred and fifty-one.

ADENAUER.

PAUL VAN ZEELAND.

J. MEURICE.

SCHUMAN.

SPORZA.

JOS. BECH.

STIKKER.

VAN DEN BRINK.

# PROTOCOL ON RELATIONS WITH THE COUNCIL OF EUROPE

## THE HIGH CONTRACTING PARTIES:

BEING FULLY AWARE of the need to establish as close ties as possible between the European Coal and Steel Community and the Council of Europe, particularly between the two Assemblies;

TAKING NOTE of the recommendations of the Assembly of the Council of Europe;

HAVE AGREED to the following provisions:

### ARTICLE 1

The governments of Member States are invited to recommend to their respective Parliaments that the members of the Assembly, whom these Parliaments are called upon to appoint, should preferably be chosen from among representatives in the Consultative Assembly of the Council of Europe.

### ARTICLE 2

The Community's Assembly shall annually forward a report on its activity to the Consultative Assembly of the Council of Europe.

### ARTICLE 3

The High Authority shall communicate each year to the Council of Ministers and to the Consultative Assembly of the Council of Europe the general report provided for in Article 17 of the Treaty.

### ARTICLE 4

The High Authority shall inform the Council of Europe of the action which it has been able to take on any recommendations which the Committee of Ministers of the Council of Europe may have addressed to it under Article 15 (b) of the Statute of the Council of Europe.

### ARTICLE 5

The present Treaty establishing the European Coal and Steel Community and its Annexes shall be registered with the Secretariat General of the Council of Europe.

### ARTICLE 6

Agreements between the Community and the Council of Europe may, among other things, provide for any other form of mutual assistance and collaboration between the two organizations, and the appropriate forms thereof.

Done at Paris, on the eighteenth day of April, one thousand nine hundred and fifty-one.

ADENAUER.  
Paul VAN ZEELAND.  
J. MEURICE.  
SCHUMAN.  
SPORZA.  
Jos. BECH.  
STIKKER.  
VAN DEN BRINK.

CONVENTION CONTAINING THE  
TRANSITIONAL PROVISIONS

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## THE HIGH CONTRACTING PARTIES:

BEING DESIROUS of establishing the Convention covering the transitional provisions provided for in Article 85 of the Treaty,

HAVE AGREED to the following:

## PURPOSE OF THE CONVENTION

### ARTICLE 1

1. The purpose of the present Convention, drawn up in pursuance of Article 85 of the Treaty, is to lay down the measures necessary to establish the common market and to adapt production progressively to the new conditions which it creates, while facilitating the removal of the disequilibria resulting from previous conditions.

2. To this end, the Treaty shall be implemented in two stages, to be known as the preparatory period and the transitional period.

3. The preparatory period shall extend from the date on which the Treaty comes into force to the date on which the common market is established.

During this period:

(a) all the Community's institutions shall be set up and the relations among these institutions, the undertakings and their associations and the associations of workers, consumers and merchants shall be organised in order to place the operations of the Community on a basis of regular consultation and to establish a common viewpoint and a mutual understanding between all interested parties concerned;

(b) the action of the High Authority shall include:

- (1) studies and consultations;
- (2) negotiations with third countries.

The object of these studies and consultations shall be to make it possible, in constant co-operation with Governments, undertakings and their associations, workers, consumers and merchants to achieve a general view of the situation in the Community's coal and steel industries and of the problems to which this situation gives rise and to prepare the concrete measures that must be taken to deal with these problems during the transitional period.

The purpose of the negotiations with third countries shall be: on the one hand to establish the basis of co-operation between the Community and such countries; and on the other hand to obtain, prior to the elimination of the customs duties and quantitative restrictions within the Community, the necessary waivers from:

- the most-favoured-nation clause within the framework of the General Agreement on Tariffs and Trade and of bilateral agreements; and
- the non-discrimination clause governing the liberalisation of trade within the framework of the Organisation for European Economic Co-operation.

4. The transitional period shall begin on the date on which the common market is established and shall end five years after the common market for coal was set up.

5. The provisions of the Treaty shall apply as soon as the Treaty comes into force in accordance with Article 99, subject to the exceptions and without prejudice to the additional provisions contained in the present Convention for the purposes defined above.

Except where expressly provided to the contrary in the present Convention, such exceptions and additional provisions shall cease to apply and the measures taken for their implementation shall cease to have effect when the transitional period ends.

# Part One

## IMPLEMENTATION OF THE TREATY

### CHAPTER I—SETTING UP THE COMMUNITY'S INSTITUTIONS

#### THE HIGH AUTHORITY

##### ARTICLE 2

1. The High Authority shall take up its duties upon the appointment of its members.
2. In order to fulfil the tasks entrusted to it by Article 1 of the present Convention, the High Authority shall immediately carry out the duties of information and study which are conferred on it by the Treaty, under the conditions laid down in Articles 46, 47, 48 and 54, third paragraph and using the powers specified in those Articles. As soon as the High Authority takes up its duties, Governments shall bring to its attention, in accordance with Article 67, any action which may have appreciable repercussions on conditions of competition, and, in accordance with Article 75, any clauses in commercial agreements or similar arrangements relating to coal and steel.

On the basis of the information received about equipment and programmes, the High Authority shall determine the date from which the provisions of Article 54, other than those referred to in the preceding paragraph, shall apply both to investment programmes and to projects under way on that date. The last paragraph but one of Article 54 shall not apply, however, to projects for which orders were placed before 1st March, 1951.

Immediately upon taking up its duties, the High Authority shall, as far as may be necessary and in consultation with the Governments, exercise the powers provided for in Article 59 (3).

The High Authority shall not carry out the other duties assigned to it by the Treaty before the date when the transitional period for each of the products in question begins.

3. On the dates specified above, the High Authority shall inform Member States that it is in a position to carry out each of its duties. Until such notification, equivalent powers shall continue to be exercised by Member States.

Nevertheless, as from a date which the High Authority shall appoint as soon as it takes up its duties, consultations shall take place between the High Authority and Member States before the latter take any legislative or administrative measures as regards matters for which the Treaty gives responsibility to the High Authority.

4. Without prejudice to the provisions of Article 67 concerning the effect of new measures, the High Authority shall examine with the Governments concerned the effect on the coal and steel industries of existing statutory or administrative measures, particularly the fixing of the prices of by-products

over which the High Authority has no authority, and contractual social security schemes, in so far as such arrangements have consequences equivalent to those of administrative measures. If the High Authority finds that certain of these measures, either by their own effect or because of the discrepancies which they create between two or more Member States, could seriously distort competitive conditions in the coal and steel industries, whether in the market of the country in question or in the rest of the common market or in export markets, the High Authority shall, after consulting the council, propose to the Governments concerned any action which it considers adequate to correct such measures or to compensate for their effects.

5. In order to be able to base its actions on data independent of the varying practices of undertakings, the High Authority shall, in consultation with Governments, undertakings and their associations, workers, consumers and merchants seek a way to make comparable:

- the scales of prices applied to different qualities of products in relation to the average price for such products or to the successive stages in the elaboration of such products ; and
- the calculation of allowances for depreciation.

6. During the preparatory period the High Authority's main task shall be to enter into relations with undertakings, their associations and associations of workers and of consumers and merchants in order to acquire a concrete knowledge both of the general situation and of particular situations within the Community.

With the information collected on markets, supplies, conditions of production in undertakings, living conditions of workers and modernisation and equipment programmes, the High Authority shall draw up in co-operation with all parties concerned a general review of the Community's position in order to guide their common actions.

The measures required to set up the common market and to facilitate the adaptation of production shall be prepared on the basis of these consultations and of the overall picture of the Community thus acquired.

## THE COUNCIL

### ARTICLE 3

The Council shall meet during the month following the High Authority's assumption of its duties.

## THE CONSULTATIVE COMMITTEE

### ARTICLE 4

With a view to setting up the Consultative Committee in accordance with Article 18 of the Treaty, Governments shall forward to the High Authority, as soon as it begins to operate, all information as to producers', workers', and consumers' organisations for coal and for steel, in each country and in particular as to the composition, geographical scope, constitutions, functions and role of these organisations.

On the basis of the information thus obtained, the High Authority shall within two months from the assumption of its duties seek a decision of the Council to designate the producers' and workers' organisations responsible for putting forward candidates.

The Consultative Committee shall be set up within one month from this decision.

#### THE COURT

##### ARTICLE 5

The Court shall enter upon its duties upon the appointment of its members. Its first President shall be chosen in the same way as the President of the High Authority.

The Court shall draw up its rules of procedure within three months thereafter, at the latest.

Proceedings may not be started before the Court until the date of publication of these rules of procedure. The imposition of financial penalties and the collection of fines shall be suspended until that date.

The time-limits for the bringing of proceedings shall run only from the same date.

#### THE ASSEMBLY

##### ARTICLE 6

The Assembly shall meet one month after the High Authority has begun to operate. It shall then elect its officers and draw up its rules of procedure. It shall be convened by the President of the High Authority. Until its officers have been elected it shall be presided over by its eldest member.

The Assembly shall hold a second meeting five months after the High Authority has begun to operate. It shall then hear a general report on the state of the Community, together with the first budget.

#### ADMINISTRATIVE AND FINANCIAL PROVISIONS

##### ARTICLE 7

1. The first financial period shall run from the date when the High Authority begins to operate and end on the 30th June of the following year.

2. The levy provided for in Article 50 of the Treaty may be collected as soon as the first budget has been drawn up. As a transitional measure to meet initial administrative expenses, Member States shall make repayable interest free advances, the amount of which shall be calculated in proportion to their contributions to the Organisation for European Economic Co-operation.

3. Until the Commission provided for in Article 78 of the Treaty has decided upon the number of employees and their terms of engagement, the necessary staff shall be engaged on a contractual basis.

## CHAPTER II—SETTING UP THE COMMON MARKET

### ARTICLE 8

As a preliminary to setting up the common market, all the Community's institutions shall be organised and joint consultations shall be held between the High Authority, Governments, undertakings and their associations, workers and consumers. The common market shall be set up only after this preliminary work has been done, in the light of the overall picture of the Community which is thus acquired and in accordance with the provisions of Article 4 of the Treaty.

These measures shall come into force, without prejudice to the special provisions laid down in the present Convention:

- (a) for coal, upon notification by the High Authority that the system of equalisation provided for in Article 24 of this Convention, has been put into effect;
- (b) for iron ore and scrap, on the same date as for coal;
- (c) for steel, two months after the date specified above.

The system of equalisation laid down for coal in accordance with Part Three of this Convention must be set up within six months of the High Authority beginning to operate.

If further waiting periods should be necessary they shall be fixed by the Council upon the proposal of the High Authority.

### ELIMINATION OF CUSTOMS DUTIES AND QUANTITATIVE RESTRICTIONS

### ARTICLE 9

Subject to the special provisions provided for in the present Convention, Member States shall abolish all export and import duties or equivalent taxes and all quantitative restrictions on the movement of coal and steel within the Community on the dates appointed for setting up the common market for coal, iron-ore, scrap, and for steel, respectively, as provided by Article 8 above.

### TRANSPORT

### ARTICLE 10

The High Authority shall without delay call together a Committee of experts, chosen by the Governments of Member States, which shall be given the task of studying measures, relating to the transport of coal and steel, to be proposed to Governments in order to achieve the objects set out in Article 70 of the Treaty.

Without prejudice to the provisions of the last paragraph of Article 70, the negotiations necessary to obtain the agreement of Governments to the various measures proposed shall be undertaken upon the initiative of the High Authority, which shall also take the initiative in any negotiations which may prove necessary with third countries.

The measures to be studied by the Committee of experts shall be the following:

- (1) the elimination of discriminatory practices contrary to the provisions of Article 70, second paragraph;
- (2) the drawing up for transport within the Community of through international tariffs based on total distance and on a diminishing scale, without prejudice to the manner in which charges are distributed between the transport undertakings concerned;
- (3) the examination of the prices and conditions of transport of every kind applied to coal and steel by different types of transport, in order to harmonise these prices and conditions within the Community as far as may be necessary for the proper functioning of the common market, taking into account, among other elements, the actual cost of transport.

The Committee of experts must carry out its studies within the following time limits:

- three months for the measures referred to in (1) above ; and
- two years for the measures referred to in (2) and (3) above.

The measures referred to in (1) shall come into force not later than the introduction of the common market for coal.

The measures referred to in (2) and (3) above shall come into force simultaneously as soon as the Governments have agreed upon them. If, however, the Governments of Member States fail to agree on the measures referred to in (3) above within two and a half years of the High Authority being set up, the measures referred to in (2) shall come into force separately on a date determined by the High Authority. In such case the High Authority shall, upon the proposal of the Committee of experts, make such recommendations as it considers necessary to avoid serious disturbances in the field of transport.

The tariff measures referred to in Article 70, fourth paragraph which are in force when the High Authority is set up, shall be notified to the High Authority, which shall grant such time limits for their modification as may be necessary to avoid serious economic disturbances.

The Committee of experts shall work out and propose to the Governments concerned the exceptions which they will authorise the Luxembourg Government to make to the measures and principles defined above, so as to take account of the special position of the Luxembourg Railways.

After consulting the Committee of experts, the Governments concerned shall authorise the Luxembourg Government to continue the solution which is adopted, after the transitional period in so far as this may be necessary.

Until an agreement on the measures referred to in the above paragraphs can be reached between the Governments concerned, the Luxembourg Government shall be authorised not to give effect to the principles set forth in Article 70 of the Treaty and the present Article.

## ARTICLE 11

As soon as the High Authority assumes its duties, the Governments of Member States shall notify it of any assistance or subsidies which the coal and steel industries enjoy within their respective territories or any special charges to which they may be liable. Unless the High Authority agrees to the maintenance of such assistance, subsidies, or special charges and to the conditions under which they may be maintained, they shall be suspended on the dates and under the conditions appointed by the High Authority after consulting the Council; however, such suspension shall not be compulsory before the opening of the transitional period for the products in question.

## MONOPOLISTIC AGREEMENTS AND ORGANISATIONS

## ARTICLE 12

Any information about the agreements or organisations referred to in Article 65 shall be communicated to the High Authority under the terms of paragraph 3 of the said Article. Wherever the High Authority does not grant the authorisation provided for in Article 65 (2), it shall fix reasonable time limits at the expiry of which the prohibitions provided for in Article 65 shall come into effect.

In order to facilitate the liquidation of the organisations prohibited under Article 65 the High Authority may appoint liquidators who shall be responsible to it and shall act under its instructions.

With the assistance of such liquidators, the High Authority shall study the problems which arise and the steps which must be taken:

- to assure the most economic distribution and use of the products, and particularly of the different qualities and kinds of coal;
- to avoid, in case of a decrease in demand, any reduction in productive capacity, particularly of plant needed to supply the common market with coal in normal times or in times of high activity;
- to avoid an inequitable distribution among wage-earners of such reductions in employment as might result from a decrease in demand.

On the basis of these studies and in accordance with the tasks entrusted to it, the High Authority shall institute any procedure or set up any organisation permitted by the Treaty and which it considers appropriate to the solution of these problems, in the exercise of its powers, in particular under Articles 53, 57, 58, and Chapter V of Title III. The period of validity of such procedure or organisation shall not be confined to the transitional period.

## ARTICLE 13

The provisions of Article 66 (5) shall apply as soon as the Treaty comes into force. In addition, they may be applied to transactions bringing about concentrations and carried out between the date when the Treaty is signed and the date when it comes into force if the High Authority has proof that these transactions were carried out in order to evade the provisions of Article 66.

Until the Regulation specified in Article 66 (1) has been issued, the transactions referred to therein shall not be compulsory subject to prior authorisation. The High Authority shall not be obliged to take an immediate decision on the requests for authorisation which are submitted to it.

Until the Regulation specified in Article 66 (4) has been issued, the information referred to therein may be demanded only from undertakings over which the High Authority has authority under the terms of Article 47.

The Regulations referred to in Article 66 (1) and (4) shall be issued within four months of the High Authority beginning to operate.

The High Authority shall collect from Governments, associations of producers, and undertakings any information which may be needed to implement Article 66 (2) and (7) as regards the position in different regions of the Community.

The provisions of Article 66 (6) shall apply as the respective arrangements which they penalise enter into effect.

The provisions of Article 66 (7) shall apply from the date when the common market is set up under the terms of Article 8 of the present Convention.

## Part Two

### THE COMMUNITY'S RELATIONS WITH THIRD COUNTRIES

#### CHAPTER I—NEGOTIATIONS WITH THIRD COUNTRIES

##### ARTICLE 14

As soon as the High Authority begins to operate Member States shall undertake negotiations with the governments of third countries, and particularly with the British Government, on general economic and commercial relations as regards coal and steel between the Community and such countries. The High Authority, acting upon instructions unanimously adopted by the Council shall act as agent for Member States in these negotiations. Representatives of Member States may be present at these negotiations.

##### ARTICLE 15

In order to allow Member States complete freedom to negotiate concessions on the part of third countries, particularly in return for a lowering of customs duties on steel to harmonise with the least protective tariffs practised in the Community, Member States agree to the following provisions, to take effect when the common market for steel is set up:

Within the tariff quotas, the Benelux countries shall continue to apply to imports from third countries, intended for their home market, the duties in existence when the Treaty comes into force.

They shall subject imports over and above these quotas which may be considered to be intended for the other countries of the Community, to duties equal to the lowest duty applied, in accordance with the Brussels Nomenclature of 1950, in the other Member States when the Treaty comes into force.

Such tariff quotas shall be established by the Governments of the Benelux countries, in agreement with the High Authority in respect of each heading of the Benelux customs tariff for periods of one year and subject to revision every three months, taking into account changes in requirements and patterns of trade. The first quotas shall be fixed on the basis of the average imports by the Benelux countries from third countries during an appropriate reference period and, if necessary, taking account of production intended to replace imports and corresponding to the expected opening of new plant. Excess imports made necessary by unforeseen requirements shall be immediately notified to the High Authority, which may forbid them unless deliveries from Benelux countries to other Member States are temporarily limited, if it should note a sizeable increase in these deliveries solely attributable to such surplus imports. Importers in the Benelux countries shall be granted the benefit of the lowest customs duty only on giving an undertaking not to re-export the products in question to the other countries of the Community.

The obligation on the Benelux countries to establish a tariff quota shall come to an end under the conditions provided for in the agreement concluding the negotiations with Great Britain and in any case not later than the end of the transitional period.

If, at the end of the transitional period or upon the earlier removal of the tariff quota, the High Authority finds that one or more Member States are justified in applying toward third countries customs duties higher than those which would result from bringing their tariffs into line with the least protective tariffs existing in the Community, it shall under the conditions provided for in Article 29, authorise these States to apply the appropriate measures to ensure that their indirect imports through Member States with lower tariffs receive protection equal to that which results from applying their own tariff to their direct imports.

In order to help to bring customs duties into line with each other the Benelux countries agree, to the extent found necessary by the High Authority in consultation with their Governments, to increase their present tariffs on steel within a maximum of two points. This obligation shall not become effective until the tariff quota referred to in the second, third, and fourth paragraphs of this Article has been eliminated and until at least one of the Member States bordering on the Benelux countries has ceased to apply the compensatory measures referred to in the preceding paragraph.

#### ARTICLE 16

Save with the agreement of the High Authority, the obligation undertaken under Article 72 of the Treaty shall prohibit Member States from ratifying\* the customs duties in existence, when the Treaty came into force, by means of international agreements.

Prior ratifications resulting from bilateral or multilateral agreements shall be notified to the High Authority, which shall consider whether their maintenance is compatible with the Community working properly, and, if necessary, may make such recommendations to Member States as may be appropriate to terminate these ratifications in accordance with the procedures laid down in the agreements from which they result.

#### ARTICLE 17

Trade agreements which still have more than one year to run when the present Treaty comes into force or which contain a clause providing for tacit renewal shall be notified to the High Authority, which may address to the Member State concerned such recommendations as may be necessary for it to make use of the procedure laid down in such agreement in order that the provisions of such agreement shall conform with Article 75.

### CHAPTER II—EXPORTS

#### ARTICLE 18

As long as the provisions of the exchange regulations of the various Member States concerning foreign exchange left at the disposal of exporters have not been unified, special measures will have to be applied to prevent the elimination of customs duties and quantitative restrictions between Member States from causing certain of these States to be deprived of the foreign exchange of third countries earned by their undertakings' exports.

In accordance with this principle, Member States undertake to allow coal and steel exporters under the exchange provisions referred to above to

\* French text: "consolider"—to strengthen; Italian Text: "confirmare"—to ratify.

utilise foreign exchange earnings only to the extent permitted under the exchange regulations of the Member State in which the product in question originated.

The High Authority shall be empowered to supervise the manner in which effect is given to such measures by addressing recommendations to Governments, after consulting the Council.

#### ARTICLE 19

If the High Authority finds that, by substituting re-exports for direct exports, the setting up of the common market has resulted in a shift in the pattern of trade with third countries which is causing substantial harm to one of the Member States it may, at the request of the Government concerned, require the producers in such State to insert a destination clause in their sales contracts.

### CHAPTER III—WAIER OF THE MOST-FAVoured-NATION CLAUSE

#### ARTICLE 20

In the case of countries which enjoy most-favoured-nation treatment under Article 1 of the General Agreement on Tariffs and Trade, Member States shall jointly approach the Contracting Parties to the said Agreement in order to obtain exemption for the provisions of the present Treaty from the said Article 1. If necessary, a special session of the G.A.T.T. shall be requested for this purpose.

In the case of countries which, while not parties to the General Agreement on Tariffs and Trade, nevertheless benefit from the most-favoured-nation clause by virtue of existing bilateral agreements negotiations shall be undertaken as soon as the Treaty is signed. Should the countries concerned not agree, such commitments shall be modified or denounced in accordance with the terms thereof.

Should a country refuse its consent to Member States or to any one of them the other Member States undertake to lend effective assistance, which may extend to denunciation by all Member States of any agreements concluded with the country in question.

### CHAPTER IV—LIBERALISATION OF TRADE

#### ARTICLE 21

Member States of the Community recognise that they constitute a special customs system within the meaning of Article 5 of the Trade Liberalisation Code of the Organisation for European Economic Co-operation as in force on the date when this Treaty is signed. They therefore agree to make the necessary notification to the Organisation in due course.

### CHAPTER V—SPECIAL PROVISION

#### ARTICLE 22

Without prejudice to the expiry of the transitional period, trade in coal and steel between the Federal Republic of Germany and the Soviet Zone of Occupation shall be regulated, as far as the Federal Republic is concerned, by the Government of the Federal Republic in agreement with the High Authority.

# Part Three

## GENERAL PROTECTIVE MEASURES

### CHAPTER I—GENERAL PROVISIONS

#### READJUSTMENT

##### ARTICLE 23

1. If the consequences of the establishment of the common market oblige certain undertakings or parts of undertakings to cease or to change their activities during the transitional period, defined in Article 1 of the present Convention, the High Authority, at the request of the Governments concerned and under the conditions specified below, shall co-operate in protecting the labour force from the burden of readjustment and in providing productive employment for it, and may make non-repayable grants to certain undertakings.

2. At the request of the Governments concerned and under the conditions defined in Article 46, the High Authority shall participate in a study of the possibilities of re-employing redundant members of the labour force either in existing undertakings or by creating new activities for them.

3. In accordance with the procedure laid down in Article 54, the High Authority shall facilitate the financing of programmes submitted by the Government concerned and approved by the High Authority for the transformation of undertakings or for the creation, either in industries over which it has authority or, if the Council gives a confirmatory opinion, in any other industry, of new, economically sound activities capable of providing productive employment for the labour force which has become redundant. Subject to the agreement of the Government concerned, the High Authority shall give preference in granting such facilities to the programmes submitted by undertakings which have had to close down because of the establishment of the common market.

4. The High Authority shall make non-repayable grants for the following purposes:

- (a) to contribute to the payment of compensation, if undertakings wholly or partly close down, so as to enable workers to wait until they can obtain new employment;
- (b) to contribute to undertakings by means of grants, so as to enable them to pay their staff in the event of temporary unemployment arising as a result of undertakings having to be reorganised;
- (c) to contribute to the payment of resettlement allowances to the workers;
- (d) to contribute to the financing of technical retraining for workers who have to change their work.

5. The High Authority may also make non-repayable grants to undertakings which have had to close down because of the establishment of the common market, provided that this is directly and exclusively attributable

to the limitation of the common market to the coal and steel industries and that it leads to a relative increase of production in other undertakings of the Community. Such assistance shall be limited to the amount required to enable such undertakings to meet their immediate liabilities.

Any request for such assistance must be submitted by the undertaking concerned through the intermediary of its Government. The High Authority may refuse all assistance to any undertaking which has failed to inform its Government and the High Authority that a situation was developing which might lead it to close down or re-organise.

6. The High Authority shall make any non-repayable grants under paragraphs 4 and 5 above conditional on the payment by the State concerned of a special contribution which shall be at least equal in amount unless the Council, acting by a two-thirds majority, decides otherwise.

7. The manner of financing the schemes provided for in this Article shall be the same as provided for giving effect to Article 56 of the Treaty.

8. The assistance which may be given under the present Article may be granted by decision of the High Authority, taken after receiving a confirmatory opinion from the Council, during the two years after the transitional period ends.

## CHAPTER II—SPECIAL PROVISIONS FOR COAL

### ARTICLE 24

It is accepted that protective arrangements are necessary during the transitional period, so as to avoid sudden and harmful shifts in production taking place. These protective arrangements must take account of the position as it is when the common market is established.

If in one or more regions there is a danger of certain price increases occurring, to an extent and with a suddenness, which would be harmful precautions must be taken to prevent this happening.

To deal with these problems the High Authority shall, during the transitional period, where necessary, and under its supervision authorise:

- (a) the practices provided for in Article 60, 2, (b), as well as zone prices in cases not covered by Chapter V of Title III;
- (b) the continuation or creation of national compensation funds or schemes, financed by a levy on national production, without prejudice to the exceptional expedients described below.

### ARTICLE 25

The High Authority shall impose an equalisation levy per ton of saleable coal, representing a uniform percentage of producers' receipts, on the coal production of those countries whose average costs are less than the Community's weighted average.

The upper limit of the equalisation levy shall be 1.5% of such receipts during the first year that the common market is operating and shall be regularly lowered each year by 20% of the initial limit.

Taking into account the needs recognised by it, in accordance with Articles 26 and 27 below and excluding the special charges which may arise from exports to third countries, the High Authority shall periodically fix the amount of the levy to be actually imposed and of the government subsidies to accompany it, in accordance with the following rules:

- (1) within the upper limit defined above, it shall calculate the amount of the levy to be imposed in such a way that government subsidies actually paid shall be at least equal to the amount of the levy;
- (2) it shall fix the maximum permitted amount of government subsidies, on the understanding that:
  - Governments may grant subsidies up to this amount but shall not be required to do so;
  - the assistance received from other countries may in no circumstances exceed the amount of the subsidy actually paid.

Additional charges resulting from exports to third countries shall enter neither into the calculation of the necessary equalisation payments nor into the evaluation of the subsidies which counterbalance the levy.

#### BELGIUM

##### ARTICLE 26

1. It is agreed that net Belgian coal production:

- shall not have to bear an annual reduction of more than 3%, as compared with the preceding year, if the total production of the Community is the same as or greater than that of the preceding year; or
- shall not be less than Belgian production during the preceding year decreased by 3%, the figure thus obtained being further reduced by the coefficient of reduction suffered by the total production of the Community as compared with the preceding year<sup>(1)</sup>.

The High Authority, which is responsible for the regular and assured supply of the Community's requirements, shall draw up long-term forecasts of production and sale and, after consulting the Consultative Committee and the Council, shall, as long as the separation of the Belgian market under the provisions of paragraph 3 below remains in force, send the Belgian Government recommendations on the shifts in production which it considers possible on the basis of such forecasts. With the agreement of the High Authority, the Belgian Government shall decide what steps are to be taken to bring about such shifts in production within the limits specified above.

2. The equalisation system is intended from the beginning of the transitional period:

- (a) to make it possible to bring the price of Belgian coal as close as possible to its price in the common market generally, so as to

(1) Example.—In 1952—total production of the Community, 250 million tons; total Belgian production 30 million tons. In 1953—total production of the Community, 225 million tons. The coefficient of reduction is thus 0.9. Belgian production in 1953 must not be less than  $30 \times 0.97 \times 0.9 = 26.19$  million tons. 900,000 tons of this cut in production represents a permanent shift, and the balance, 2,910,000 tons, represents a reduction resulting from the general situation that year.

reduce Belgian coal prices to a level near that of the costs of production foreseeable at the end of the transitional period. Price lists fixed in accordance with the principles shall not be changed without the High Authority's agreement.

(b) To ensure that the Belgian steel industry is not prevented by the special arrangements for Belgian coal from being integrated into the common market for steel and from lowering its prices for this purpose to the level practised in that market.

The High Authority shall periodically fix the amount of the additional compensation for Belgian coal delivered to the Belgian steel industry which it considers necessary for this purpose, taking into account all aspects of the running of this industry. In doing so, the High Authority shall ensure that such compensation shall not prejudice the steel industries of neighbouring countries. Moreover, in view of the provisions of (a) above, such compensation must in no case lead to reducing the price of the coke used by the Belgian steel industry below the delivered price which it could obtain if it were adequately supplied with Ruhr coke.

(c) To grant, for such exports of Belgian coal within the common market as the High Authority may find to be necessary in view of the Community's probable production and requirements, additional compensation, corresponding to 80% of the difference, to be determined by the High Authority, between the delivered price (selling price plus freight charges) of Belgian coal and the delivered price of coal from the other countries of the Community.

3. Notwithstanding the provisions of Article 9 of the present Convention, the Belgian Government may retain, or make, arrangements to allow the separation of the Belgian market from the common market, subject to inspection by the High Authority.

Imports of coal from third countries shall be subject to approval by the High Authority.

These special arrangements shall be terminated as described below.

4. The Belgian Government undertakes to abolish the arrangements for separating the Belgian coal market, described in 3 above, by the end of the transitional period at the latest. After consulting the Consultative Committee and, if it receives a confirmatory opinion from the Council, the High Authority may, not more than twice, give the Belgian Government an extra year's grace, if it finds that exceptional circumstances not now foreseeable render such a step necessary.

The integration of the Belgian coal market into the common market thus provided for shall take place after consultation between the Belgian Government and the High Authority, who shall jointly determine the appropriate means and procedures required. Notwithstanding the provisions of Article 4, (c) such procedure may allow the Belgian Government to grant subsidies which correspond to the additional operating costs arising out of the nature of its coal deposits, and which take into account any expenses resulting from manifest disequilibria which might increase operating costs.

The procedure for granting such subsidies and their maximum amount shall be submitted to the High Authority for its approval. The High Authority, shall ensure that the maximum amount of the subsidies and the tonnage subsidised are reduced as quickly as possible, having regard to the facilities for readjustment and the extension of the common market to products other than coal and steel. At the same time it shall not allow any decreases in production to provoke fundamental disturbances in the Belgian economy.

The High Authority must submit to the Council for approval, every two years, proposals on the tonnage to be subsidised.

#### ITALY

##### ARTICLE 27

1. The benefit of the provisions of Article 25 of this Convention shall be granted to the Sulcis mines so as to enable them, pending completion of the installation of equipment now in progress, to meet competition within the common market. The High Authority shall periodically fix the amount of the necessary grants, but external aid may not be granted for more than two years.

2. In view of the special position of the Italian coking plants, the High Authority shall be empowered to authorise the Italian Government, as far as may be necessary, to retain customs duties on coke from other member States during the transitional period defined in Article 1 of the present Convention; however, during the first year of this period, these duties may not be higher than those resulting from Presidential Decree No. 442 of 7th July, 1950. This upper limit shall be reduced by 10% in the second year, 25% in the third year, 45% in the fourth year, and 70% in the fifth year, and the duties shall be completely abolished by the end of the transitional period.

#### FRANCE

##### ARTICLE 28

1. It is agreed that coal production in the French mines:

- shall not have to bear an annual reduction of more than 1 million tons as compared with the preceding year if the total production of the Community is the same as or greater than that of the preceding year; or
- shall not be less than the production during the preceding year decreased by 1 million tons, the figure thus obtained being further reduced by the coefficient of reduction suffered by the Community's total production as compared with the preceding year.

2. In order to ensure that shifts in production are maintained within the above limits, the procedure laid down in Article 24 of this Convention may be reinforced by exceptional expedients financed by a special levy imposed by the High Authority on the increase in net deliveries from other coal mines calculated on French customs statistics, as far as this increase represents a shift in production.

Consequently, in calculating this levy, there shall be taken into account the amounts by which net deliveries effected during each period exceed those made in 1950, up to the amount of the decrease in the coal production of the French mines as compared with 1950, the latter figure being reduced if necessary by the same coefficient of reduction as the Community's total production. This special levy shall not exceed 10% of the producers' receipts from the deliveries in question and shall be used in agreement with the High Authority for lowering, in the appropriate zones, the price of certain types of coal produced by the French mines.

## CHAPTER III—SPECIAL PROVISIONS FOR THE STEEL INDUSTRY

### ARTICLE 29

1. It is recognized that special protective measures may be necessary for the steel industry during the transitional period to prevent shifts in production, arising out of the establishment of the common market, from creating difficulties for undertakings, which, after adjustment in accordance with Article 1 of the present Convention, would be in a position to meet competition or from leading to the displacement of more manpower than can benefit from the provisions of Article 23 of this Convention. If the High Authority finds that the provisions of the Treaty—in particular Articles 57, 58 and 59 and Article 60 (2), (b)—cannot be enforced, it shall have power to resort to the procedures set out below, in the order of preference in which they are listed:

- (a) after consulting the Consultative Committee and the Council, the High Authority may limit directly or indirectly the net increase in deliveries from one region to another in the common market.
- (b) After consulting the Consultative Committee and with a confirmatory opinion from the Council both as to the appropriateness of these measures and how to apply them, the High Authority may make use of the powers granted it by Article 61 (b); notwithstanding the provisions of the said Article, the existence or imminence of a manifest crisis shall not be necessary for this purpose;
- (c) After consulting the Consultative Committee and with a confirmatory opinion from the Council, the High Authority may set up a system of production quotas, which shall not, however, affect production intended for export;
- (d) After consulting the Consultative Committee and with a confirmatory opinion from the Council, the High Authority may authorise a Member State to apply the measures provided for in Article 15, paragraph 6 of this Convention under the conditions there laid down.

2. When making use of the above provisions, the High Authority shall during the preparatory period defined in Article 1 of the present Convention and in consultation with producers' associations, the Consultative Committee and the Council lay down the technical criteria for implementing the above-mentioned protective measures.

3. If adaptation or necessary changes in conditions of production cannot take place during part of the transitional period either because of shortages, or because undertakings are unable to obtain sufficient financial resources

from current operations or from the means placed at their disposal, or because of exceptional circumstances not now foreseeable, after the Consultative Committee has given its opinion and the Council has given a confirmatory opinion, effect may be given to the provisions of this Article after the transitional period has ended, for as long as the above-mentioned situation continues, or for two years, whichever is less.

#### ITALY

##### ARTICLE 30

1. In view of the special position of the Italian steel industry, the High Authority shall be empowered to authorise the Italian Government, as far as may be necessary, to retain customs duties on steel products coming from other Member States during the transitional period defined in Article 1 of the present Convention. However, during the first year of the transitional period, these duties may not be higher than those resulting from the Annecy Convention of 10th October, 1949. This upper limit shall be reduced by 10% in the second year, 25% in the third year, 45% in the fourth year, and 70% in the fifth year, and the customs duties shall be completely abolished by the end of the transitional period.

2. The prices charged by undertakings for sales of steel in the Italian market, when reduced to their equivalent at the basis chosen for compiling each undertaking's price-list, shall not be lower than the price shown in the price-list in question for comparable transactions, except where authorised by the High Authority in agreement with the Italian Government, without prejudice to the provisions of the last sub-paragraph of Article 60 (2) (b).

#### LUXEMBOURG

##### ARTICLE 31

In making use of the protective measures provided for in Article 29 of the present Chapter, the High Authority shall take account of the exceptional importance of the steel industry to the general economy of Luxembourg and the need to prevent serious disturbances in the special marketing conditions of the Luxembourg steel industry which arise out of the Belgian-Luxembourg Economic Union.

The High Authority may, failing other measures, if necessary use funds at its disposal under the terms of Article 49 of the present Treaty, but this procedure must be limited by the possible repercussions on the Luxembourg steel industry of the measures provided for in Article 26 of the present Convention.

Done at Paris, on the eighteenth day of April one thousand nine hundred and fifty-one.

ADENAUER.  
P. VAN ZEELAND.  
J. MEURICE.  
SCHUMAN.  
SFORZA.  
JOS. BECH.  
STIKKER.  
VAN DEN BRINK.

## PROTOCOL OF THE CONFERENCE OF MINISTERS CONCERNING THE INTERIM COMMISSION

The Delegations which have participated in working out the Treaty shall meet periodically as an Interim Committee during the interval between the signature of the Treaty and the establishment of the Community's institutions. These Delegations shall consult with each other on problems of interest to the Community and on the measures which the signatory Governments might be called upon to take before the High Authority is set up.

They shall in particular study the question of the seat of the institutions as well as that of the Community's linguistic system and shall make reasoned proposals to the Governments.

In addition, the Delegations shall study and prepare information to be placed at the High Authority's disposal concerning the measures to be taken by the latter immediately following its establishment in accordance with the third sub-paragraph of Article 2, of the Convention.

The Conference of Ministers entrusts this Commission with the task of working out specific proposals concerning the actual allocation of seats on the Consultative Committee to producers, consumers and merchants. For producers, these proposals shall be based on the value of production in the different regions concerned, and for consumers and merchants they shall be based on the value of consumption, it being understood that these studies shall provide that the Committee will include, both for coal and steel, at least one citizen from each Member State.

### ADOPTED BY THE CONFERENCE OF MINISTERS.

At Paris, on the eighteenth day of April, one thousand nine hundred and fifty-one.

## COUNCIL OF MINISTERS

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### PROTOCOL

made between the Council of Ministers and the High Authority during the 45th Session of the Council, held on 8th October, 1957, as to the methods of ensuring co-ordination of policy as regards energy

### GROUNDS

At their meeting in Rome to sign the Treaties setting up the European Economic Community and European Atomic Energy Community the Ministers of Foreign Affairs asked the High Authority to submit proposals to the Council of Ministers of the European Coal and Steel Community on ways and means of ensuring a co-ordinated energy policy.

The need for such a policy would have been felt by the countries of Europe even if there were no common market between them. The demand for energy is already such that it is difficult to meet it; energy requirements are growing faster than domestic supplies. If supplies of energy continue to be provided as economically as possible an expansion of general production is an absolute necessity. Energy investments are very long term and particularly expensive. Despite exchanges of electricity or gas products, there is a danger of the cost of these investments being increased if each country acts independently so as to meet its own needs. Ever-increasing dependence on imports raises serious problems as regards ensuring supplies, which problems the countries of Europe must face together. On the other hand the discovery of fresh resources in their territory or in that of their dependencies opens up fresh possibilities and may yet have an unforeseen effect on the obtaining of supplies. This general picture means that it must be possible to modify points of view and policies, both rapidly and in a co-ordinated manner.

The source which still supplies more than two-thirds of the energy needs of the European countries has been pooled between the Six. Other resources have developed even faster than coal and now play an increasing part in the supply of energy. It has therefore become clear that long-term forecasts as to coal requirements (which are necessary in an industry where investments have to be unusually prolonged) cannot be reliable unless they are linked with forecasts as to energy requirements as a whole, which are alone directly related to general economic developments. This is why steps have already been taken in the Joint Committee, which has been set up between the High Authority and the Governments belonging to the Council. These steps were one of the necessary preliminaries to defining the general objectives for coal, responsibility for which was accepted by the High Authority.

It also has to be remembered that the conditions of energy production may find themselves transformed before very long by the industrial development of atomic energy. The six countries belonging to the European Coal

and Steel Community have taken into account both this pending revolution and the need to face it together. If they are to ensure that atomic energy and the nuclear industry develop as they should they need to have an exact knowledge of possible energy resources and needs as a whole.

Finally, energy policy is based on certain fundamental choices ; in particular between the certainty of obtaining supplies and getting them at the lowest price ; between the relative importance of satisfying present needs and covering future requirements and the different ways of dealing with peak demands. Any divergence in such policy will affect the conditions of competition between different consuming industries. Against the background of the probable setting up of a common market covering economic activities as a whole it is essential, if this economic integration is to develop harmoniously, that a co-ordinated policy for energy should be adopted without delay.

There is no question of applying the rules of the Coal and Steel Community to other forms of energy which will form part of this general economic integration.

What is needed to enable Europe to be supplied with energy must essentially consist of :

- estimating its probable long-term resources and requirements ;
- laying down the conditions under which energy investments can be made and the installations can be operated in the most economic manner ;
- co-ordinating energy policy, including exchanges with third countries and each country's general economic policy.

In the present state of European organisation, a co-ordinated energy policy should essentially be the fruit of work performed together by the High Authority and the Governments, in which representatives of the new European Communities would take part immediately these were formed.

Acting in this spirit and in this manner the Joint Committee has already begun this work. This must be continued in a more thorough manner, but whereas the Joint Committee, as it now exists, is in itself only an investigating body, what is needed is something able to decide on action. It is essential to find simple and effective ways of ensuring that countries which have already shared their coal resources and which are getting ready to develop their nuclear industry together, should now ensure that their general energy policy is also co-ordinated.

With these considerations in mind, the High Authority and the Council of Ministers have agreed as follows :

#### ARTICLE 1

The programme of studies, designed to enable energy policy to be co-ordinated and which appears in the Annex, is approved in the form in which it there appears.

## ARTICLE 2

It shall be the duty of the High Authority to carry out the studies referred to above. It shall take expert advice and work with the Joint Committee which was set up by the Resolution of the Council of Ministers on 13th October 1953, under the Chairmanship of the High Authority's representative.

It shall be the duty of the High Authority to find the most appropriate way of working with the Commissions of the European Economic and Atomic Energy Communities, as soon as these are set up, so as to study the problems which concern them all.

Without prejudice to the powers conferred upon it by Article 47 of the Treaty, as regards undertakings which are subject to the Community, the High Authority shall be entitled to receive information direct from persons concerned. Governments shall lend every assistance and shall, if necessary, make use of the powers they have to facilitate information being sent direct in this way.

## ARTICLE 3

As soon as the Commissions of the Atomic Energy and Economic Communities have been set up, representatives from them shall be invited to take part in the work of the Joint Committee.

The Joint Committee shall periodically make reports which shall include proposals for balancing energy supplies, from the short, medium and long term points of view as well as suggesting appropriate ways of achieving this balance.

These reports, which shall, if necessary, reflect the different opinions which have been formed shall be simultaneously forwarded to the High Authority and to the Governments.

## ARTICLE 4

On the basis of the Joint Committee's reports, the High Authority shall submit general guiding lines to the Council of Ministers. These shall deal with energy policy and include proposals as to how such a policy is to be carried out and what precise measures are required for this purpose. The High Authority and the Council shall discuss them together, with a view to formulating a common policy for the Community and the six Member States individually.\* They may be published.

## ARTICLE 5

Without prejudice to the work carried out in the Council of Association with the United Kingdom and links, inside the Organisation for European Economic Co-operation, with countries which are not members of the Community it may be decided, for the study of particular problems and by general agreement, to invite representatives of non-member countries to take part in meetings with the Joint Committee or in special meetings between the High Authority and the Council,

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\* Note. The French text is "*de la Communauté et des six pays*".

Statistics covering energy supply and demand shall be drawn up in respect of different periods, some being short term and the others long term. These shall be based on research into the most economical manner of achieving a balance.

These studies shall serve the purpose both of rapidly providing data, on which it will be possible to base the first firm conclusions, and of enabling more thorough work to be carried out so as to progressively improve analysing methods.

### 1. *Retrospective Statistics*

These shall be based on a study of the energy structure during the last few years available and shall be supplemented by analyses of the most recent events from year to year.

Work which has already been carried out shall be periodically prolonged and improved by research along two lines:

- (a) an attempt will be made to complete the statistical data where gaps exist and to improve them from the point of view of comparability;
- (b) an attempt will be made to make conditions for converting energy from one stage to another (primary energy, secondary energy, consumed energy, useful energy) more alike.

### 2. *Medium and Long Term Forecasts*

Extrapolations for long term requirements, based on statistics for past years, shall be revised as new data appear.

In order to determine, on a more short term basis, to what extent ways of meeting needs can be found it will be desirable:

- (a) to study the connection between the increase in activity of various groups of consumers and their energy requirements;
- (b) to obtain information about current or planned investments. Such information need only cover main categories (production plant, transport and distribution equipment for each type of energy), giving details of expenditure in respect of each category, results obtained and dates of entry into operation;
- (c) to forecast import requirements at different dates, spaced out in the future, these being based on a comparison between (a) and (b) above.

### 3. *General Conditions to be Achieved*

A study shall be made of the conditions disclosed by the above extrapolations, which will only become forecasts once these conditions are satisfied. These conditions will in particular be influenced by:

- effects having to do with balance of payments,
- necessary investments,
- available manpower.

#### 4. *Maintenance of Balance During the Period of Expansion*

If some of the conditions set out above cannot be satisfied, attempts shall be made to discover how to ensure that the balance needed for expansion is re-established, whilst interfering as little as possible with the free movement of the energy economy. This shall be in the light of the following studies :

- (a) an analysis of the conditions which lead to the use of one or other of the different forms of energy, when they are in competition with one another and in particular by investigating :
  - the effect prices have in causing switches from one source of energy to another ;
  - the structure of the cost to the consumer of different sources of energy and how this cost is determined ;
  - factors influencing prices e.g. customs duties, taxes, subsidies, financing methods.
- (b) research into the contribution which a lowering of utilisation costs can make to the energy balance :
  - by the producer stabilising the price ;
  - by the consumer limiting his consumption.

## INDEX

### *Abbreviations used:*

AN: Annexes to Treaty.  
CTP: Convention containing the Transitional Provisions.  
PSC: Protocol on the Statute of the Court of Justice.  
PCE: Protocol on relations with the Council of Europe.  
PCM: Protocol of the Conference of Ministers concerning the Interim Commission.  
PPI: Protocol on the Privileges and Immunities of the Community.

## A

*Accession to the Treaty*—Art. 98.  
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*Agreements between undertakings*—Art. 65, 66, 75; CTP Art. 12, 17.  
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    Members: Art. 21; PCE Art. 1; PPI Art. 7, 8, 9.  
    Organisation and operations: Art. 22, 23, 25, 38, 78; PCE Art. 6.  
    Powers, rights and duties: Art. 20, 23-25, 78, 95; PCE Art. 2; CTP Art. 6.  
    President: Art. 23, 78; PSC Art. 7.  
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*Briquettes*—An. I.

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*Compensation funds*—CTP Art. 24.  
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*Consultative Committee*—Art. 7, 18, 19.

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Members: Art. 18; *PCM*.

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*Control of undertakings*—Art. 66.

*Convention containing the Transitional Provisions*—Art. 84.

*Co-operation between Community and Governments*—*CTP* Art. 1.

*Costs of production*—Art. 67.

*Council of Europe*—Art. 94; *PCE*.

*Council of Ministers*—Art. 7.

Members: Art. 27; *PPI* Art. 10.

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Powers, rights and duties: Art. 9, 12, 18, 19, 22, 23, 26, 28, 29, 32, 33, 35, 37, 41, 50, 53-56, 58-61, 66, 67, 68, 72, 73, 74, 78, 88, 95, 96, 98; *CTP* Art. 2, 4, 8, 11, 14, 23, 29; *PSC* Art. 4, 13, 16, 18; *PPI* Art. 12.

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## W

*Wages*—Art. 68, 69.  
*Workers*—Art. 18, 46, 48, 55, 56, 69; CIP Art. 23—(see also *Labour*).  
*Wrongful Acts by Community's Servants*—Art. 40.



TREATY  
establishing  
THE EUROPEAN COAL AND  
STEEL COMMUNITY

Paris, 18th April, 1951



**CORRECTION**

Page 59, Article 39, line 2

*Delete*

party concerned proves the existence of an unforeseeable circumstance.

*Substitute*

lodged within the period of one month provided for in the last paragraph of

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